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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 12 August 1991, at 10 a.m.

Chairman: Mr. JOINET

later: Mr. HELLER

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The meeting was called to order at 10.15 a.m.

ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 13) (E/CN.4/1991/56; E/CN.4/Sub.2/1989/32) (continued)

1. Mrs. FARHI (International Council of Jewish Women) noted that it had not yet been possible to make a specific analysis of the new situation arising from the changes that had taken place in Central and Eastern Europe and the end of communism. There had certainly been improvements, but the old demons were re-emerging. Almost no country in the former Soviet bloc seemed to be able to resist the temptation of nationalism imbued with xenophobia and religious intolerance. The feeling of individual and collective oppression produced by the totalitarian State was now being replaced by recovered memories and national pride. The kind of message conveyed by the Russian ultra-conservative Pamiat movement was to be found in almost all the countries of Eastern and Central Europe to a greater or lesser extent, as well as among a section of the population of some Western democracies, where movements of the extreme right had recently assumed disturbing proportions. That kind of nationalism did not exist in Africa.

2. Nationalism accompanied by such unacceptable phenomena as xenophobia, the rejection of others, and religious intolerance was based on the idea that the national identity was determined primarily by race, language, geography and religion. As far as the latter was concerned, it was not the content of a religion that mattered, but the image formed of its followers as a group, an image that was quite often based on ignorance, prejudice and defamation.

3. The resurgence of anti-semitism was a very disturbing problem, especially in Central and Eastern Europe. In the USSR, Poland and Romania the forms which it took were the old obscurantist forms of the past. Nothing had changed. The vocabulary was the same and Jews were made to be the scapegoats for all the ills of society. The view that the Jews were a group of demons plotting against the nation and its values, and even against all Western nations and even the whole world, seemed to be becoming common in a certain conservative section of the Russian press, where it went unpunished. Anti-Semitic feelings were also to be found among the authorities. In short, the anti-Semitism, called "anti-zionism", of the communist regime had been replaced by the anti-Semitism of the tsarist days, with its fables about the world Jewish plot being expressed in absolute freedom.

4. The world situation with regard to intolerance based on religion or belief was such as to require the preparation of a convention on the subject. The in-depth reflection that would certainly result could only be of benefit for the progressive eradication or, at least, the reduction of the phenomenon. For that, however, political will would be needed.

5. Mr. FERNANDEZ (International Organization for the Development of Freedom of Education) noted that the reports submitted by Mr. d'Almeida Ribeiro to the Commission on Human Rights showed the persistence of attitudes of intolerance in the world, and sometimes even an upsurge of new and more subtle forms of intolerance in countries which had seemed to be free from the problem. His

organization was particularly concerned by the matter because, as Mr. van Boven had pointed out in his 1989 report to the Sub-Commission (E/CN.4/Sub.2/1989/32), some of the provisions concerning the elimination of intolerance based on religion related to the right of parents to bring up their children in accordance with the religion or belief of their choice.

6. Tolerance was a difficult attitude which sometimes required a laborious apprenticeship. As Livingstone had stated, true tolerance was often painful, and indifference was only false tolerance. True tolerance required self-discipline and deep respect for other people.

7. First of all, tolerance must not be confused with indifference, which was a negative attitude of disinterest. Unfortunately, educating people to be tolerant was often transformed into educating them to be indifferent. That was an easy solution but it led to a strengthening of intolerance in extremist groups. A tolerant person must respect other people while having his own convictions. Otherwise, tolerance was meaningless.

8. The ideologies which had identified tolerance with indifference had also postulated, in order to justify their view of the world, that religions and strong beliefs always comprised an element of intolerance. That was unfounded and, as Mrs. Benito had stated in her report on the elimination of all forms of intolerance and of discrimination based on religion or belief (E/CN.4/Sub.2/1987/26), piety really masked prejudices which intrinsically had nothing to do with religion: antipathy and hostility were caused by historical, socio-cultural or physical factors. Religion was not the corner-stone of discrimination. On the contrary, the teachings of a given religion were deformed and interpreted in such a way as to excuse prejudices. The sacred texts of the various religions contained many passages appealing for tolerance.

9. Therefore, in educating people to be tolerant two rights must be equally respected: the right to hold beliefs or to have a religion, and the right of others to have their beliefs respected. Many contemporary educational systems all too often confused educating people to be tolerant with indifference towards beliefs, which was not satisfactory from the standpoint of human rights. How could it be claimed that a person became tolerant if the educational system endeavoured to make him understand that his religion or belief was of no or little value? Inevitably there would be a reaction of rejection and a feeling of being disregarded, which would degenerate into fundamentalism, intolerance and even violence. Consequently, in order to educate people to be truly tolerant, it was essential to enlarge substantially the freedom of education. The State must promote the establishment of educational centres which allowed tolerance even with regard to what was false and unjust. That required an educational pluralism within the State system and among State and private schools and the possibility of choosing a school among several alternatives having characteristics based on different religions and beliefs.

10. Mr. LITTMAN (World Union for Progressive Judaism), after drawing attention to the message delivered by Father Marcel Dubois of Jerusalem to the Commission on Human Rights on 19 February 1991, said that since the

United Nations was the home of the Universal Declaration of Human Rights, it would seem to follow that United Nations organs, representatives of member States, accredited observers and other participants in United Nations proceedings should respect the international legal principle proscribing incitement to national, racial, ethnic or religious hatred. It might be expected that a United Nations body dedicated to denouncing human rights violations worldwide would oblige all representatives to comply with what was laid down in the International Covenants and regularly proclaimed at United Nations forums. Yet that was still not the norm. One recent example of religious intolerance mascarading under its habitual garb undoubtedly concerned the Sub-Commission. Five weeks previously Mr. Ballesteros had denounced an "event" that had marred the last session of the Commission, referring to an incitement to prejudice, intolerance and violence which deserved unequivocal condemnation and rejection. The acknowledgement by the Chairman of the Commission had come five months after the "event" itself, following considerable pressure from States and non-governmental organizations. The "event" had occurred in the Commission on 8 February 1991 when the representative of Syria had revived the 1840 "Damascus Affair" - the notorious blood-libel accusation against the Jewish people and Judaism - by urging all members of the Commission to read a very important work that demonstrated unequivocally the historical reality of zionist racism. The statement had been published as an official United Nations document (E/CN.4/1991/80) at the request of the Permanent Mission of Syria.

11. The book held up as "proof" was an Arabic translation of a squalid nineteenth century anti-Semitic tract, prefaced in 1983 by Syria's long-time Minister of Defence. Two passages translated from the preface should permit experts and observers alike to taste the flavour of that anti-Semitic morsel, recommended to the Commission as "historical reality" and beamed to Arab countries for educational and home entertainment purposes by the Syrian Government radio. One passage read: "Here opens before us a page even more ugly than the crime itself: the religious beliefs of the Jews and the destructive perversions they contain, which draw their orientation from a dark hate towards all humankind and all religions". The second passage read: "Damascus was shaken by a heinous crime. Father Thomas Al-Kabaushi fell victim to the Jewish community, who wanted to extract his blood for the manufacture of festival unleavened bread ...". The reference was obviously to the Passover meal.

12. How all that gibberish could be related to "zionism" was anyone's guess, but it could not be tolerated in any civilized society or forum, which obviously included the United Nations. Surely a consensus could be found at the current session of the Sub-Commission to adopt a resolution condemning that particular incitement, as well as any similar future incitements, to hatred and religious intolerance in United Nations bodies? Otherwise, similar libels against religions or ethnic groups might follow.

13. Syria's attitude towards its Jewish minority was well known. At the Sub-Commission's forty-second session, Mrs. Palley had drawn attention to the plight of Jewish women in Syria and had urged the representative of Syria to indicate when they would be permitted to emigrate. One year had gone by and the Jewish religious community in Syria remained a hostage minority. A small

number of persons had been allowed to leave discreetly, but recently more individuals had been imprisoned for attempting to flee the country without authorization. About 200 single Jewish women were still retained against their will. At the present crucial moment for the Middle East, a firm resolution by the Sub-Commission requesting the Government of Syria to let the Jews go would certainly contribute to the positive momentum in the region towards reconciliation and an eventual comprehensive peace settlement through negotiations between all the parties.

14. A disturbing religious aspect of the Lebanese hostage drama, now hopefully drawing to a close, was the case of the 11 Jewish hostages being treated as non-persons totally forgotten by all. Since 1986 he had raised their plight on many occasions in both the Commission and the Sub-Commission, naming and describing all those who had been abducted by an Islamic terror group bearing the mediatic pseudonym "Organization of the Oppressed on Earth". Between late December 1986 and June 1987 that gang had announced the execution of 9 out of the 11 Jewish hostages, but only 4 bodies had ever been recovered. Voices were now being raised from all sides to free all the hostages. There was no reason why Jews should be excluded from that call. President Assad of Syria would have the final say as to whether "all" meant "all" or simply "all except Jews". There again the Sub-Commission might make its persuasive voice heard through the adoption of a global "hostage" resolution. Those who executed in the name of Allah or refused to account for those they had abducted, or even to return dead bodies, should bear in mind the words attributed by Baladhuri to the Prophet Mohammad: "He who does wrong to a Jew or a Christian will have me as his accuser on the day of the Last Judgement".

15. Mr. VITTORI (Pax Christi) said that for Pax Christi, an international Catholic movement for peace, freedom of religion was among the most important human rights. In the Universal Declaration of Human Rights it had been defined as the right to freedom of thought, conscience and religion, including freedom to change one's religion or belief and to manifest one's religion or belief. Pax Christi fully agreed with Pope John Paul II that intolerance was a serious threat to peace.

16. Pax Christi had therefore followed with interest, but often with distress, the developments in Eastern Europe, in certain countries of Africa, and in China. It had observed with joy and relief the recent decisions on religious liberalization announced in the USSR and in several countries of Eastern Europe, especially Albania, where the situation had been particularly dramatic for more than 40 years for the members of the three main religions that had previously been practised freely there. Everything, of course, was not yet perfect: the Uniates in Eastern Europe, for instance, were having enormous difficulties in recovering their places of worship, despite the promises made by the civil and religious authorities since the Uniate Church had been able to emerge from its long period of clandestinity.

17. In other parts of the world, certain Islamic countries could hardly be said to be implementing article 18 of the Universal Declaration of Human Rights, which also included freedom to change one's religion or belief and freedom to manifest one's religion or belief, alone or in community with

others, in teaching, practice, worship and observance. To mention only one recent example, many Christian soldiers based in the territory of an Islamic country which they had come to protect had had to efface the cross on their ambulances and had not been able to celebrate openly and in dignity Christmas day in 1990. Moreover, in that country many migrant workers had never been authorized to practise their religion collectively unless it was that of the reigning feudal regime. In Asia, China was now allowing certain churches to open and was releasing certain religious leaders who had been in prison for many years for their religious convictions. That was encouraging, but still not enough. Regrettably, a bishop had been imprisoned in the spring of 1991. Also, many Tibetan buddhists were waiting for their personal, as well as their religious, freedom.

18. There were sporadic manifestations of anti-Semitism everywhere in Europe, which Pax Christi strongly condemned. Religious intolerance was often involved in cases of racism. It was to be hoped that Jerusalem would soon become the reference point for fraternal coexistence between the three great monotheistic religions.

19. Fortunately, however, freedom of religion was increasing. Pax Christi therefore wished to suggest that an internal surveillance system for the right to that freedom be set up by all Governments, under United Nations control. The legal basis for it was to be found in article 18 of the Universal Declaration of Human Rights, article 18 of the International Covenant on Civil and Political Rights, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Governments could be invited to establish, within their frontiers, standing committees on freedom of religion with which representatives of the major religions in the country would be associated. The committees should have a link with the Human Rights Committee, which should continue its periodic consideration of the reports submitted by States parties and to make appropriate recommendations, particularly in cases where religious intolerance was imposed by the State itself. The Centre for Human Rights, with its extensive experience, was certainly capable of implementing that suggestion.

20. Mr. KALKE (International Association against Torture) said that his Association considered that much work remained to be done in guaranteeing freedom of religion in so far as it affected the political, economic, cultural and social life of a given country or region. It therefore supported Mr. van Boven's call for a conference on the relationship between religious rights and other human rights instruments. The experience of his Association's national sections throughout the Americas would suggest that there was a clear policy of persecution directed against those religious leaders who worked with the poor and the exploited in their efforts to realize their human rights. A number of Governments in the Americas were implementing a policy designed to neutralize, isolate or eliminate religious leaders whose message ran contrary to the discrimination and oppression to which national minorities and the poor were subjected.

21. It was no secret that since the early 1960s the domestic and foreign policy of the United States of America had been built on a cold war mentality with anti-communism as one of its clearly visible characteristics. As that

policy had taken shape, assumptions equating working with the poor and working against racial discrimination as communist had been made at the highest levels. The role of the State in harassing religious leaders in the United States for their involvement in movements for social change was an historical fact. The harassment and assassination of Malcolm X and Dr. Martin Luther King were examples. The role of the State in infiltrating the churches that had been involved in providing sanctuary for Latin American refugees during the past decade was also a fact.

22. The policy was not, however, confined to the United States of America. It had been developed by the American armies and was now being implemented throughout the continent, as was shown by certain publications that had appeared in the United States and by the Banzer plan in Bolivia, under which Christians active in causes for social justice were to be isolated, slandered and, if necessary, assassinated. The evidence of persecution of the church in the Americas suggested that the acts of persecution involved were not isolated instances but represented the internationalization of a domestic policy based on racism, discrimination and anti-communism. For example, as a result of the role played by religious forces in the overthrow of the dictators in Iran and Nicaragua in the late 1970s, President Reagan had issued an executive order reversing a previous order which had made it illegal for the intelligence forces of the United States Government to use religious missionaries and institutions in their work. That was a clear intervention in the internal affairs of religious institutions, contradicting in practice information made available to the Special Rapporteur by the United States Government indicating a separation of Church and State.

23. In 1980, in El Salvador, Archbishop Oscar Romero had been assassinated while celebrating mass. The authors of that crime had never been arrested or tried; some would suggest that they were the leaders of the political party ARENA, now in power in El Salvador. Those responsible for the extra-judicial execution of six Jesuits, their cook and her daughter in November 1989, mentioned in Mr. d'Almeida Ribeiro's report (E/CN.4/1991/56), had not been brought to justice, and the administration of which had been hindered more than once in the case. The International Association against Torture believed that the assassinations of those six Jesuits, who had been key religious leaders working with human rights organizations throughout El Salvador and the region, was a clear attack on the church of the poor in its involvement with the promotion of human rights.

24. Death squads continued to operate in El Salvador. During July 1991 the President of the International Association against Torture, Lutheran Bishop Medardo Gomez, had again been threatened with death. The Special Rapporteur and the members of the Sub-Commission should demand that the Government of El Salvador cease its attacks on religious leaders.

25. In October 1983 the United States had invaded Grenada. One of the reasons given was to protect the lives of United States citizens; yet in September 1983, a United States citizen, the Jesuit priest James Carney, was detained, tortured and assassinated in Honduras, and eyewitness accounts obtained by the Carney family suggested that United States military forces were involved in his capture and that CIA personnel had been present during

his torture and were aware of his assassination. All documents bearing on the case had been classified by the United States Government for security reasons.

26. On 21 July 1991, a matter of days before the National Section of the International Association against Torture was to hold a human rights assembly, its representative had been shot dead in Honduras. Mr. Lopez Hernandez, whose brother had disappeared in Honduras in the early 1980s, had not been able to accept the invitation to testify before the Working Group on Enforced and Involuntary Disappearances in June 1990 because the United States Government had denied him a visa to come to New York for one day to give his testimony. The reason given was that he was a poor, unemployed person unable to substantiate a legitimate reason to return to Honduras, where his mother, two brothers, wife and two sons resided. The International Association against Torture believed that the real reason went beyond that bureaucratic excuse and constituted a direct interference in the procedures of the Working Group and the life of a defender of human rights.

27. It also believed that the persecution of sectors of the church in the Americas was particularly alarming within the framework of the so-called "New World Order". The problem could not be limited to the practices of just one Government; yet the convergence of practices and ideological premises in a number of documents suggested a regional coordination of the strategy to persecute religious workers. His organization therefore requested the Special Rapporteur to give special attention to the persecution of the church and of religious practice in the Americas as a region, and to examine the evidence concerning that church which had identified with the poor, the oppressed, the indigenous and the victims of racism and the exploited in their struggle for human rights.

28. The late Dr. Martin Luther King had had a dream for poor people; Malcolm X had had a vision for what he defined as the Black Nation within the United States. Archbishop Romero had called for an end to fraternal violence and had pleaded with the United States to stop military aid to the Salvadoran Government. Father Carney had identified with the peasants in their search for land on which they could grow food. Mr. Lopez Hernandez had been committed to defending human rights, and to basic education about the human rights guaranteed by the various United Nations instruments. All those leaders had been isolated and eliminated; yet the work of their communities went on. The Sub-Commission should identify strategies to protect those people for whom they had given their lives and whose basic human rights were still denied.

29. Mr. CHAMMARI (International Federation of Human Rights) recalled that the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief had been the result of a long process to which the Sub-Commission had decisively contributed. To be sure, the elimination of all forms of discrimination based on religion or belief directly concerned the provisions on freedom and the practice of religion or belief in articles 1 and 6 of the 1981 Declaration; it also concerned the possible "use of religion or belief for ends inconsistent with the Charter, other relevant instruments of the United Nations and the purposes and

principles of the present Declaration". In that regard he drew the Sub-Commission's attention to the question of the Shariah, which seemed essential for the future of the protection of human rights in Islamic societies and countries.

30. Manifestations of intolerance and religious discrimination were obviously not specific to individuals, groups or States that drew on a particular idea of Islam. All religions were affected by the phenomenon. Such manifestations as the extremism or religious fanaticism of private groups or government practices inspired by certain ideas of Christianity, of Judaism (notably in the Palestinian and occupied Arab territories), of Islam, of Hinduism or of any other religion, were to be condemned; and the International Federation of Human Rights had many times taken a firm stand on them. It had been very concerned at some aspects of the debate following the report recently presented by the Sudanese Government to the Human Rights Committee, and it drew attention to the conclusions reached by the two missions of inquiry and observation carried out on its behalf in Pakistan from 24 to 27 October 1990 and from 20 to 27 May 1991.

31. In Tunis, Cairo, Algiers, and Rabat, human rights organizations, and particularly the International Federation of Human Rights and the organizations affiliated to it, had consistently assisted in court activists of Islamic groups indicted for their beliefs and political affiliations. They had done so in accordance with their calling which consisted of defending the human rights of every individual and citizen including those of whose ideas they might in other respects disapprove. Indeed his organization rejected the idea that persons should be put on trial for the fact of their affiliations or convictions, they should be tried only for proved acts that were against the law.

32. Finally, they were aware that, especially, in the Western countries socio-economic conditions, memories of the past and the rejection of difference had produced phenomena arising from emotional reactions and fantasies, which strengthened xenophobic and racist behaviour, in particular with regard to Islam.

33. His Federation and its affiliates had constantly warned against those trends and the mixure of ideas that nourished them. Respectful of Muslim law as of all religions, they were engaged in continuous struggle against such discriminatory manifestations. However they had observed that, at the same time, manifestations and practices of religious intolerance and fanaticism gave a distorted image of Islam, strengthening those reflexes of fear and rejection which his Federation most energetically rejected.

34. There had always been confusion between Islam as a religion and traditional Muslim law, one being presented as an integral part of the other. Nevertheless a number of eminent Muslim specialists had proved that Muslim law, elaborated by Muslim jurists during the three first centuries of the hegira, had only tenuous links with Islam as a religion. Muslim law was above all a product of history, a law on which Muslims could draw and which explained some contemporary rules, but which essentially had to adjust to the requirements of the age, to contemporary legal concepts and to international

legal instruments elaborated in long and laborious dialogues, ending in an inter-cultural legal consensus. That consensus, applied effectively and going beyond the conception of double standards which unfortunately still prevailed, constituted the point of reference for human rights campaigners. What really was at stake was to bring local positive law into line with the provisions of international legal instruments.

35. In that perspective the Tunisian League of Human Rights had adopted in 1985 a "Charter" which proclaimed in its preamble that the League drew in its ideas on the liberating principles in the values of Arab-Muslim civilization and on the universal aspiration to the protection of the human rights laid down in the international human rights declarations and conventions in the political, economic, social and cultural spheres. Article 9 of the Charter declared that every one was entitled to freedom of thought and conscience.

36. That right implied the free choice of religion or beliefs and freedom in their interpretation ("ijtihad"). The concept of "ijtihad" constituted the indispensable effort of interpretation and innovation called for by the Koran since there was no centralizing individual or collegial interpretative authority in Islam: the interpretation of the sources of law was not carried out by a single religious authority. Islamic legal theory recognized four official sources: the Koran, of course; the "Sunna" of the Prophet, the narratives concerning the Prophet's conduct and the sayings (hadith) attributed to him; the consensus of scholars (ijmâ); and analogical reasoning (qiyas). That complex system of references was based all the more on the key concept of ijtihad in that only a very small number of hadith had been unanimously authenticated and accepted.

37. For human rights activists in Islamic countries the daily combat had to be waged against arbitrary acts and repression, but also, against all forms of archaism, exclusion, fanaticism or intolerance. That involved the rights of women, the status of the individual, the rights of the child, the problem of freedom of opinion and conscience, corporal punishment and the rights of religious, ethnic and linguistic minorities. He stressed that the strict application of the Shariah constituted the main demand of the most dogmatic and intransigent private and governmental fundamentalists.

38. Mr Heller took the Chair.

39. Mr. BENHIMA (Observer for Morocco) said that secularism in Muslim States could not be considered as a stand taken against religion and that conversely the adoption of Islam as a State religion could not be considered as a rejection of secularism.

40. He recognized that most of those who called for the Shariah understood it as the application of religious sanctions in criminal matters; however, other areas of law could have a legal existence independent of the law proceeding from religious tradition. At the present stage, the religious freedom of all citizens had to be emphasized, as a salutary confessional balance.

41. However, the idea sometimes occurred to Muslim jurists that law and social morality should be associated, and that a State constituted on principles drawn from the Koran and the Sunna remained a supra-national and ideal State. Further, one might ask whether the legislation of some Muslim States, locked in a particularist regional context, was not in contradiction with the desire to re-establish the Oumma, the Muslim nation-State.

42. In his country, religious freedom derived from the express provisions of the Constitution, which stipulated in article 6 that the State guaranteed respect for freedom of worship. That freedom was confirmed in the Code of Public Freedoms in 1958 and in the Penal Code.

43. Morocco, a State based on the rule of law considered religious freedom to be an attainment of civilization, a necessary condition for the full development and fulfilment of the human person; and it therefore enjoyed threefold protection. Religious freedom in Morocco had to be understood in its three aspects of belief, conscience and worship. Since the seventh century, Islam had been the religion of almost all Moroccon citizens, united in the same orthodox malekite rite. Since that time there had been perfect symbiosis with the Hebraic religious minority, the only one existing at the time Islam made its appearance in the West.

44. With the advent of the Almohade dynasty, despite its Islamic purism, contacts had been made with Christianity at the highest level in Rome. During the Protectorate, religious freedom continued to benefit from the traditional tolerance, solidly rooted in Moroccan custom.

45. Since independence, an overall Muslim infrastructure that prohibited proselytism, religious freedom had been guaranteed.

46. Offences against religious freedom, demonstrations or acts of disorder committed during worship and the desecration of graves, were considered serious infringements of public order and severely punished. Thus, whatever the religious affiliation of an individual, the coherence of the legal order demanded that he should not be subjected to any form of discrimination, and that, instead, in the interests of society and of the respect for the law, he should be able to demand respect for his national identity and religious specificity. Thus, in a spirit of tolerance, Christians and Jews were not subject to Koranic food requirements. Another sign of tolerance in civil affairs was to be found in the provisions of the Code of Obligations and Contracts, which were more restrictive with regard to Muslims. All those concerns of detail were aimed at reconciling social constraints with the need to respect the coexistence of several autonomous and recognized religious communities.

47. Jews had lived in Morocco long before the advent of Islam, and even before Christianity, in well organized communities which were joined by many families expelled from the Iberian peninsula at the time of the Inquisition and who had found asylum and protection and benefited from all the conditions allowing them to carry on agricultural, business and craft activities in their adopted country. Their life among the local population was marked by assimilation in dress, by the adoption of the Arab language, Arab customs and

by a way of life identical with that of their Muslim fellow-citizens. They lived under the direct protection of the central Government. Everyone would remember the courageous stand taken by Mohamed V in 1942, and his refusal to apply the anti-Jewish laws in Morocco.

48. Since independence, broad autonomy had been granted to Jewish citizens and their rabbis in personal status and rights of inheritance, as well as with regard to religious worship, holy days, the settlement of differences by arbitration, the reception of foreign religious figures, the disposal of collected funds, and Hebrew teaching establishments. They had their own courts for applying the laws inherited from the Hebrew tradition. The Moroccan Jewish community provided the State with illustrious ministers, parliamentarians, mayors, judges and civil servants. The Jews of Morocco remained Moroccan citizens permanently under the perpetual allegiance deriving from the Treaty of Madrid of 1880, but had to choose between loyalty to their country of birth or to another environment.

49. Many foreigners might have a mistaken idea of Christianity in Morocco. Since the fifteenth century, the Franciscans had been able to organize a chaplaincy in Morocco for their resident confreres. In the nineteenth century the Catholic Church had founded a prefecture, replaced by an Apostolic Vicariat in 1923. Tangiers and Rabat became archbishoprics in 1955. At present, there were two dioceses in Morocco administered by Franciscan archbishops. That tradition of close relationship between the Moroccan Muslim community and the Christianity of Western Europe had been marked by two important events: the visit of the King to John Paul II in 1982, and that of his Holiness John Paul II to Casablanca, where he had been welcomed by 100,000 young Muslim Moroccans. A royal message of 1983 recognized the freedom of the Catholic church to carry out its activities in the cultural, jurisdictional and educational spheres. Places of worship, churches and cathedrals, were exempt from tax. Monks could give assistance to prisoners.

50. Morocco a country on the frontiers of Europe, remained a State where complete tolerance prevailed, laid down by the law and desired by the population. Three major religions, Islam, Judaism and Christianity lived side by side. Moroccan citizens of the Jewish faith enjoyed the same civil, political, economic, social and cultural rights as did citizens of the Muslim faith. Furthermore, the Moroccan Nationality Code of 6 September 1958 gave a privileged status to a foreigner taking Moroccan nationality. Religious freedom, like other public freedoms, formed a material used by Morocco to build a modern State, on foundations of justice and equality, which could not be achieved without that union of the lofty values of each religion.

51. Mrs. MINHINNICK (Women's International League for Peace and Freedom), speaking on behalf of the Ngaati Te Ata Nation, said that its beliefs with respect to sacred places were not unlike those of other Maori or indeed other indigenous peoples. Its burial grounds at Maoro, Waiuku, were sacred. The New Zealand Government had confiscated the lands in 1863 under the New Zealand Settlement Act. Four blocks had later been returned under Crown Grants and taken away again in 1959 under the Public Works Act. In 1966 a mining licence had been issued to New Zealand Steel Ltd, which had proceeded to mine for iron ore on the Ngaati Te Ata Nation's sacred burial grounds. In 1989 that company

had been sold to a multinational group. In 1990 human remains had been uncovered during the mining and six people had been arrested while trying to protect the TAPU or sacred ceremony from such an act of intolerance and discrimination against the Ngaati Te Ata Nation's cultural and spiritual beliefs.

52. The intrusion continued. In 1990 the Government had promised to return the sacred lands without encumbrances, but the new company had obtained an injunction against the Government which would give the company millions of dollars of payout. It would still have the right to mine, and the Maoris would have to go through a reinterment procedure in the event of further remains being unearthed. Her people had declined the Government offer, made in June 1991, of a sum of "goodwill money": they simply wanted their sacred burial lands returned unencumbered. What they sought was the elimination of all forms of intolerance and discrimination against their beliefs, especially by a Government which prided itself on its international image.

53. Through the restructuring of the Local Government Act, the regional Government had gained massive powers over the Manukau Harbour another part of the Ngaati Te Ata Nation's tribal lands. Like the central Government, the regional Government also promoted intolerance and discrimination; it ignored her people's pleas to remove sewage, toxic and hazardous waste discharges from waterways, harbours and rivers, depriving them of their sustenance and traditional foods. The Auckland Regional Council's response, had been simply to move the discharge pipeline from one area of Manukau Harbour to another. Having ecologically, culturally and spiritually violated and destroyed one area, the Government legalized its right to abuse another.

54. The New Zealand Government protected New Zealanders and foreign investors who lived on confiscated lands, while her people's cultural and spiritual beliefs, based on their indisputable ties with the lands, remained unrecognized: even the Treaty of Waitangi, which guaranteed protection of those lands, had been ignored. The New Zealand Government had to eliminate all forms of intolerance and discrimination against her people's cultural and spiritual beliefs. The Ngaati Te Ata Nation further sought recognition of its cultural and spiritual beliefs through the return to it of all Maori artefacts and cultural properties held in other countries, including those in Geneva.

55. Mr. WADLOW (International Fellowship of Reconciliation) recalled that his organization had participated in the process leading to the drafting of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. It noted that in his working paper (E/CN.4/Sub.2/1989/32), Mr. Van Boven had asked whether the existing methods of monitoring compliance with the Declaration were adequate and whether additional instruments were needed. His organization did not at that time wish to discuss possible additional instruments but would prefer to consider current methods of monitoring the cases brought before the Commission on Human Rights, the Sub-Commission or the Working Group on Indigenous Populations. The three cases were: Tibet and China; the Chittagong Hill Tract Area of Bangladesh; and the situation in Myanmar. The Tibetan case and the Chittagong Hill Tracts case had first been raised in 1984; Myanmar had been raised in 1990 when the Fellowship of Reconciliation had led in presenting a joint statement to the Commission.

56. Mr. d'Almeida Ribeiro's summary of the religious situation in Tibet (E/CN.4/1991/56, paras. 46-51) was a faithful reflection of interviews with monks and nuns who had recently left Tibet and reports by sociologists and visitors. It showed a clear and consistent pattern of repression. His organization had begun monitoring the situation in Tibet from a distance in 1982-1983; unfortunately, that situation had not improved. Owing to the Fellowship's network of observers on Tibet, most of the information published by Mr. d'Almeida Ribeiro had been devoted to the situation of Buddhism in that country. That did not mean that all was well in other areas and faiths, but that material on them had not been as systematically submitted as on Tibet.

57. With regard to the human rights situation in China, there were different currents in Chinese politics, from Stalinist to liberal, and the task was undoubtedly to help the liberal and pluralistic tendencies, not by silence but by energetic efforts to stress the universal nature of human rights. Neither the Commission nor the Sub-Commission had called upon the advisory services of the Centre for Human Rights to help the Chinese Government break its repressive cycle of discrimination based on religion or belief.

58. His organization had presented the situation in the Chittagong Hill Tracts to the Working Group on Indigenous Populations in 1984 and 1985, and had raised the issue a number of times in the Commission and the Sub-Commission. Religion was not the only factor involved; land tenure, cultural differences and population pressure all played a role. However, there was a religious factor in the situation. Owing in part to the Fellowship's having raised the issue, the previous Government of Bangladesh had invited a fact-finding mission by parliamentarians, anthropologists and others. The report of the Chittagong Hill Tracts Commission had recently been presented to the Working Group on Indigenous Populations, and a memo highlighting their findings would be sent to the Sub-Commission. The section of the report entitled "Culture and Religion in the Chittagong Hill Tracts" indicated religiously motivated attacks, including those on Buddhist temples and monks.

59. The situation in Myanmar included two main aspects that had to be addressed simultaneously: the need to restore popularly elected government, an effort in which Buddhist monks had played a leading role and had suffered repression from the military-led Government, and the establishment of a representative and federal constitution so that all the peoples of the country could play a full and positive role. The religious factor was important in both those aspects.

60. There had been different degrees of involvement by the United Nations system in monitoring religious liberty situations in the three cases mentioned. Concerning Tibet and China there had been no action of which he was aware, despite the presentation of considerable documentation to the thematic special rapporteurs.

61. Concerning the Chittagong Hill Tracts, concern within the United Nations and the European Parliament had led to the start of fact-finding and contact missions carried out by non-governmental organizations, and to discussions within the International Labour Organisation. His hope was that, as a result

of the report of the independent Chittagong Hill Tract Commission, the Sub-Commission would take action during the current year when there was a popularly elected Government in Bangladesh, which seemed to be willing to make a break with the oppressive policies of the past.

62. In connection with Myanmar, the situation was being studied under the 1503 procedure; a first special rapporteur had made a report, and, following Mrs. Ogata's election as High Commissioner for Refugees, another special rapporteur had been named.

63. On the basis of those three cases, his organization could not reply fully to the questions raised by Mr. van Boven. It was nevertheless convinced that, acting together, the community of human rights workers could advance the cause of human rights throughout the world. The Sub-Commission had a privileged role to play in that effort and non-governmental organizations would contribute to that effort to the extent possible.

64. Mr. KESSEL (Observer for Canada), making a statement equivalent to a right of reply, said that he wished to correct some misstatements of fact by the representative of the International Work Group for Indigenous Affairs.

65. The representative had stated that policies existed in Canada which deprived the children of Mohawk people who followed their traditional beliefs of the right to medical care, education and any other rights that were granted to other Mohawks who might be of Catholic, Protestant or other religious persuasions. That was patently incorrect. The Province of Quebec provided universal health, social and education services. The Government of Canada provided additional services to Indians registered under the Indian Act. There had been no change in services provided by either government since the events at Oka the previous summer.

66. There was an inference in the representative's statement of discrimination attributable to race or religion. That suggestion was without foundation, as any such discriminatory policy would be subject to challenge under the Canadian Charter of Rights and Freedoms and the Quebec Charter on the rights and freedoms of the individual.

67. In 1990, in an attempt to obtain more accurate information, and to ensure conformity with long-established requirements, the Government had begun to examine more closely the documentation being presented for registration under the Indian Act. Whether documentation issued by the traditional Mohawk religion would be acceptable for registration for the purposes of the Indian Act was a matter currently under review.

68. The allegation that services were being withdrawn in retaliation for Mohawk resistance to the development of a golf course on a Mohawk burial ground was without any basis. The Federal Government of Canada had in fact purchased the land in dispute and was holding it in trust for the Mohawk people pending the successful outcome of ongoing negotations. The Federal Government had thereby ensured that there was no threat that the land in question would be turned into a golf course.

69. Mr. EICHER (Observer for the United States of America), making a statement equivalent to a right of reply, said that his Government deeply regretted the comments made by the observer for Cuba during the Sub-Commission's 8th meeting. The observer of Cuba had attacked the United States Government by name with a series of false allegations. Such attacks by one government on another had no place in the Sub-Commission which should be a forum for serious thought and reflection, not a place for governments to attempt to score political points.

70. He did not intend to respond in detail to the false claims made by the Government of Cuba. It was sufficient to reiterate once more his Government's long-standing and determined opposition to the reprehensible policy of apartheid. Further, the lifting of United States sanctions pursuant to the provisions of United States domestic law did not indicate any lessening of its commitment to bringing about the early end of the remaining aspects of apartheid. In conclusion, he would like to reiterate his Government's conviction that a process of irreversible change was under way in South Africa. It was incumbent on all to encourage that change and take constructive action to bring about the common goal, namely, the total eradication of apartheid, rather than engage in meaningless recriminations.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION ESTABLISHED UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (E/CN.4/Sub.2/1991/14, 15, 46 and 51; E/CN.4/Sub.2/1991/NGO/9; E/CN.4/Sub.2/1990/2; E/CN.4/Sub.2/1989/47, 51 and 55)

71. Mr. KAILAU (Centre for Human Rights), introducing the item, recalled that in 1967 the Commission on Human Rights had requested the Sub-Commission to prepare a report containing information on violations of human rights and fundamental freedoms from all available sources for the use of the Commission. The Commission had invited the Sub-Commission to bring to its attention any situation which it had reasonable cause to believe revealed a consistent pattern of violation of human rights and fundamental freedoms in any country, including policies of racial discrimination, segregation and apartheid, with particular reference to colonial and other dependent territories.

72. At its forty-second session, the Sub-Commission had considered under the current item a number of human rights situations in various countries to which reference was made in the annotated agenda contained in document E/CN.4/Sub.2/1991/1/Add.1.

73. By its decision 1989/104, the Sub-Commission had decided to establish, at the beginning of its forty-second session, a sessional working group of five of its members, appointed by the various regional groups and open to the participation of other members of the Sub-Commission, to prepare an overview and an analysis of the suggestions and proposals which had been made in order to enable the Sub-Commission to better discharge its responsibilities in

dealing with violations of human rights as discussed under item 6 of its agenda, taking also into account the functions and duties of the Commission on Human Rights in the matter.

74. The Commission on Human Rights, in its resolution 1991/56, had invited the Sub-Commission to instruct its working group to intensify its discussions on reform issues and to include in its deliberations an examination of ways and means to avoid any proliferation of studies as well as of draft resolutions or decisions on issues already being dealt with by the Commission.

75. Mrs. WARZAZI said that the hopes engendered by the end of the cold war and the emergence of solutions to seemingly intractable armed conflicts in Nicaragua, El Salvador and Cambodia had not yet brought mankind peace and development. The problem of Palestine was still acute. A condemnable invasion had had a tragic impact on the target country, incalculable effects on the developing countries and disastrous repercussions on the economies of other least developed countries as well as on millions of persons who had been subjected to exile, summary execution, forced displacement and sudden ruin and poverty. Millions of children and adults continued to suffer from lack of medical care and basic food supplies. In addition, the world was afflicted by torrential floods, earthquakes, volcanic eruptions, cholera, AIDS, terrorism, civil war and rising unemployment and criminality. It was against that background that the situation of human rights in the world had to be considered.

76. The end of the cold war had raised the hopes of suffering people everywhere and had led to a wave of democratic claims, unfortunately often accompanied by violence. Full democracy could not be achieved overnight. Ideologies competing with modern liberalism must also be guarded against.

77. The consolidation of democracy needed a worthy model. Unfortunately there were many cases of double standards. It was easy to understand the anger of the Palestinian people at the treatment meted out to them after they had been promised a new world order.

78. She wished to pay a particular tribute to the non-governmental organizations whose work, based as it was on sincere motivation, should be encouraged. When peoples were unable to have recourse to the institutions responsible for the defence of human rights, the non-governmental organizations had a crucial role to play in that they could alert world public opinion and thus become the champion and spokesman of oppressed peoples.

79. In cases where national institutions responded to the needs and wishes of the population consistent with the recommendations of the General Assembly, close cooperation between national and international organizations was possible. The secret of the success of such non-governmental organizations lay in the creation of a climate of confidence which would enable Governments to accept and study complaints and, where justified, to provide redress. National non-governmental organizations completely independent of the state should be given maximum assistance through the advisory services of the Centre for Human Rights and, in particular, the voluntary fund.

80. Progress by Governments in promoting respect for human rights should be given appropriate credit as such action would encourage further progress in the future. By the same token, any regression by Governments should be condemned.

81. Violations of human rights occurred everywhere in the world but it was only violations in third world countries and, until recently, in eastern European countries, which had been singled out for particular criticism. The unjust international economic order was not the fault of the countries of the third world which currently were struggling to pay their debts. True political democracy had little chance of survival without social justice.

82. Events such as the violence perpetrated against migrant workers and the Albanian refugees made it possible to believe, with the French writer Edgar Morin, that there were two kinds of underdevelopment which required treatment, namely: material underdevelopment, which was suffered by the third world, and moral and intellectural underdevelopment, which was universal. The pursuit of purely economic progress could be prejudicial to freedom. Escalating migratory pressures would call for greater restrictions on freedom if the current economic and social disequilibrium was to be preserved.

83. While violence continued to rage in Palestine, it was nevertheless comforting to note that Israeli pacifists were beginning to agitate for peace. If peace and security were to be achieved in the region, a peace conference must lead to the achievement of self-determination for the Palestinian people.

84. Continuing vigilance was essential in the field of human rights. World peace and stability could not be assured while the majority of the peoples of the world continued to be deprived of their most elementary rights.

85. Mr. EIDE said that he agreed with much of what Mrs. Warzazi had said, particularly her reference to the non-governmental organizations.

86. In his view, democracy was a necessary requirement in order to achieve social justice in a climate of cooperation. He therefore considered that the Sub-Commission should adopt a constructive approach to agenda item 6. The Sub-Commission's main purpose was not to denounce Governments but to contribute to the realization of human rights everywhere. For that to happen, it required a proper analysis of the causes and nature of violations and it must also develop a better framework in order to respond constructively to the problems faced by different societies in their quest for the realization of human rights.

87. The basis of the Sub-Commission's work should be cooperation in the promotion and realization of human rights. The Sub-Commission must also recognize the limits and problems of cooperation. In addition, it must examine the relationship between cooperation, criticism and pressure and, on the basis of such an analysis, try to develop components for a possible future comprehensive strategy.

88. On the need for cooperation, Commission on Human Rights resolution 1991/26 could serve as the starting point. Possibilities in that connection had vastly improved since the end of the cold war, for two reasons. The ideological confrontation over the content and priority of human rights had basically disappeared and that development had facilitated the emergence of a common platform in understanding and applying internationally recognized human rights standards. The past motivation of the major Powers to compete for influence in the third world and, in that process, causing exploitation and aggravation of social and political tensions had to some extent given way to an inclination to join hands in search of peaceful, constructive and democratic solutions. He was convinced that, in the long run, that development would facilitate democratic developments within all countries both in the north and in the south.

89. Expanding cooperation in solving human rights problems was already visible in recent experiences in Namibia, Angola, El Salvador, Guatemala, hopefully in Cambodia, and in Equatorial Guinea.

90. The whole gamut of United Nations efforts to bring parties together and develop a plan for the implementation of international standards of human rights was very encouraging. One illustration was to be found in Commission resolution 1991/80 on Equatorial Guinea in which the Commission had called on the Government to implement a plan of action drawn up by the expert on the country and had requested that a report on the implementation of that plan should be submitted to the Commission by the Secretary-General. That development pointed to an important dialogue between a Government and the United Nations in which the Government had agreed to accept and develop a comprehensive plan for the realization of human rights while the Commission was to monitor the degree to which the plan was being implemented. That approach would be more frequent in the future.

91. Development was impossible without social and political peace while social and political peace was impossible without respect for international human rights standards. Those issues would therefore in future be closely intertwined.

92. The Sub-Commission must recognize the problems and limits in connection with cooperation. In situations such as the occupied Palestinian territories, it could not be expected that the occupied population would submit to the rule of the occupier without a struggle.

93. The problem was not only one of violence by a government. In some cases, where the Government was well intentioned, there might be violent opposition groups. In that case some degree of external assistance might prove constructive.

94. The relationship between cooperation, criticism and pressure was important. Governments were composite institutions with several components; some elements might wish to find a reasonable solution to social, political and ethnic problems while others were bent on domination and discrimination. In such cases the Sub-Commission must combine cooperation and pressure. Cooperation must be given to those groups and forces in the country which were

struggling for democracy and social justice; pressure must be exerted on those opposing such a development. The pressure must be strong enough to demonstrate clearly that the benefits deriving from cooperation were greater than those to be obtained from domination and violence. It would be important for the Sub-Commission to learn how to combine those three elements effectively in the future.

95. The Sub-Commission should try to sort out a number of components for a possible future comprehensive strategy. In the field of cooperation, humanitarian assistance must be stressed. Mr. van Boven and himself would submit a working paper on the issue of developing international humanitarian standards under item 4. The Sub-Commission ought to go ahead with efforts to achieve the aim of the Declaration on the Right to Development, namely that the individual must be the subject and not the object of development and that in an international society a partnership must be developed for the realization worldwide of human rights standards; in that struggle Governments must cooperate with non-governmental organizations. In that connection, it was encouraging to note the increase in the number of non-governmental organizations in the third world, particularly groups supportive of indigenous peoples and those active in opposing modern forms of slavery.

96. Mr. PHEKO (Pan Africanist Congress of Azania) said that apartheid was still alive and that racist, colonialist and minority rule continued. Universal suffrage had not been introduced in South Africa, and no democratically elected constituent assembly had been set up to draw up a new constitution, as demanded by the PAC and other political organizations of the oppressed.

97. The Land Act of 1933, consolidated in 1936, was a colonial law enacted to facilitate the economic dependence of Africans on Europeans. Its repeal was meaningless; 67 per cent of African people lived below the poverty line in South Africa and only two per cent could afford to buy land, which in any case was their own, taken from them by force.

98. Apartheid could not be eradicated and colonialism destroyed without the land question being addressed and the glaring economic imbalance redressed. Africans were suffering poverty, underdevelopment, disease, the highest rate of infant mortality and the shortest life expectancy because of that iniquitous imbalance. Throughout its struggle, the PAC had signalled its determination never to be landless, for land was the basis of national independence.

99. The Group Areas Act had also been repealed, but the bill replacing it was equally protective of apartheid. It gave the regime authority to establish an inspection board with the power to inspect premises for so-called overcrowding and to "maintain appropriate norms and standards in any residential area".

100. The regime seemed to be going back even on that so-called repeal. The Cape Town Council had been informed that it could not allocate vacant houses to Africans; that houses built for Europeans must be for Europeans, those for Coloureds for Coloureds, and those for Africans, for Africans.

101. On the question of the cultural sports boycott, the International Olympic Committee had recently announced that South Africa would be readmitted to the Olympic Movement, but the mere fact of signing a document proclaiming the formation of a single national sports body did not end apartheid. Moreover the international sports organizations had not waited to see whether the merger would actually work before lifting the sporting boycott of apartheid South Africa. PAC's position was that there could be no normal sport in an abnormal society. When the South African contingent took part in international sports it would hoist the apartheid flag and sing the racist colonialist anthem.

102. The repeal of certain laws led not to the eradication of apartheid but to its deceptive reform. The solution in South Africa would be found by dealing with fundamental issues leading to irreversible change. In Zimbabwe and Namibia racism and colonialism had first been destroyed and then the reborn nations had taken their place in the comity of nations.

103. He recalled that over a thousand political prisoners, including members of the PAC, were still in jail in South Africa, some serving forty-year sentences.

104. The basis for negotiations in South Africa was the United Nations Declaration on Apartheid and its Destructive Consequences in Southern Africa (Security Council resolution S-16 of 14 December 1989). That Declaration, adopted by consensus, must not be sacrificed to private agreements between the regime and a section of the liberation movement. The PAC recognized only the United Nations Declaration, and no other agreement made with the regime by any section or individual of the Azanian liberation movement.

105. The PAC demanded that its freedom fighters, members and exiled supporters be given their freedom under the conditions of the United Nations Declaration, and a general amnesty for political prisoners and exiles. It rejected the regime's claim to indemnify the opponents of apartheid and colonialism. The 1973 Convention on the Suppression and Punishment of the Crime of Apartheid had declared apartheid, like genocide and war crimes, a crime against humanity. The PAC strongly supported the view that the victims of apartheid and colonialism in South Africa must be compensated for the political, economic, social, technological and psychological damage done to them.

106. The premature lifting of sanctions encouraged the oppressed to find other means of ending apartheid and colonialism in Azania. The noble struggle for self-determination would continue long after sanctions were lifted. No investments would be safe until the white minority colonialist regime was terminated.

107. The PAC saluted the principled stand taken up by Denmark, the European Parliament, and Black Congress members in the United States on sanctions.

108. The African people, who had shed their blood for the freedom of Europe during the Second World War, would continue their struggle for self-determination to the bitter end, with or without sanctions. If Europe decided to side with the forces of apartheid and was guided by kith and kin politics and economic interests it would be showing its hypocrisy.

109. The people of South Africa were not prepared to enter the twenty-first century still the slaves of alien rule in their own country. South Africa was a colonial creation, based on a statute of 1909 creating the country out of four British colonies. Apartheid was a reflection of the racist colonial policy of the United Kingdom, which had manipulated international law in mineral-rich South Africa. The United Kingdom had smuggled South Africa into the League of Nations in 1920 and into the United Nations in 1945, parading that scandalous act as a process of decolonization. Today the African people were being cheated into dealing with apartheid as the cause of the South African problem, whereas it was a manifestation of a colonial situation deliberately left unresolved for reasons of racism and economic interests.

110. The apologists of Mr. De Klerk would have it believed that he wanted change but that his problem was the unwilling South African army, the intelligence service and disobedient ministers in the Cabinet. That was totally misleading. The truth of the matter was that Mr. De Klerk had rejected majority rule as "simplistic". Like his backers, he wanted minority settler rule to continue in one form or another. His strategy was in conformity with the designs of the Broederbond agreed at many secret meetings.

111. If Mr. De Klerk was serious about eradicating apartheid and destroying colonialism he would have the full support of the dispossessed Africans. Once seen to be on the side of the oppressed, the leaders of other former colonial powers had been welcome and the problems resolved.

112. It seemed that the United Kingdom as a colonial Power might have to resolve the colonial mess. Since the United Kingdom had taken away their country from the Africans, it should restore it to them. Mr. De Klerk was an agent of the oppressors and no oppressor had ever given up power voluntarily.

113. Mr. RAMLAWI (Observer for Palestine) said that in considering item 6 the attention of the Sub-Commission over the last few years had been directed towards violations of human rights and fundamental freedoms in the territories of Palestine occupied by Israel since 1967. The Sub-Commission's interest was reflected in the numerous resolutions it had adopted, equating such violations with war crimes. In addition many other United Nations bodies, specialized agencies and non-governmental organizations, including the ICRC, had condemned those violations and called on Israel to cease its arrests, torture and deportation, and to stop the indiscriminate use of tear gas which had caused women to miscarry.

114. The Palestinian people based their arguments on international instruments such as the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Charter of the United Nations and general principles of international law including the Fourth Geneva Convention. Violations of those instruments by a member of the United Nations constituted a threat to international peace and security. Israel had ignored the resolutions of international bodies condemning its violations of human rights in the territories that it had occupied by armed force since 1967. Israeli forces in Palestine and the occupied territories carried out reprisals against Palestinians, arrested and ill-treated them in an unprecedented manner, as testified in many reports by the United Nations, the International Committee of the Red Cross, Amnesty International and other non-governmental

organizations. The Israeli occupation constituted a violation of the right of the Palestinian people to self-determination and deprived them of their fundamental human rights.

115. Under the current proposals for a settlement of the Middle Eastern conflict, attempts were being made to place the relationship between certain Arab countries and Israel on a normal footing. But a peaceful solution to the long-standing Palestinian problem would not be found through such a short-term process. A solution must be found that was based on international legitimacy, with land restored to its rightful owners, for otherwise the Israeli presence in the occupied lands would merely be consolidated.

116. If the peace process merely supported Israel it would violate the human rights of the Palestinians and circumvent the principles of the Charter of the United Nations and Security Council resolution 242 (1967). It would be awarding a prize to the Israeli occupants and to the United States. Such a process would not be based on international legitimacy but would be an attempt to subvert it. Any solution not based on the principles of international law and the resolutions of the United Nations would not bring about a peaceful solution but merely aggravate the problem, increase reprisals and perhaps even cause regional or international war.

117. The Security Council had recommended the holding of an international conference to settle the Middle Eastern problem with participants from all the countries involved, including Israel, on an equal footing. Since 1983 the General Assembly and the Commission on Human Rights had been trying to adopt such a resolution, which was supported by the Palestine Liberation Organization, as it had confirmed at the General Assembly in 1983. Israel, however, rejected all the resolutions of the Security Council and took no account of the decisions of the international community. Because of the detrimental effects of its policy, the Security Council and the Sub-Commission had attempted to protect the Palestinian people suffering under the yoke of the Israeli forces. That protection had become increasingly necessary as the number of victims continued to grow. Israel had been called upon to abide by the principles of the Fourth Geneva Convention in the occupied territories and to show a responsible attitude, in keeping with its provisions.

118. Mr. VITTORI (Pax Christi International) recalled that some progress had been made to end the wars in Angola and Ethiopia and that there was hope for the end of the armed conflict in Cambodia and Afghanistan and for negotiations in El Salvador and Guatemala if the death squads were put out of action. South Africa had entered into a process that would be irreversible if international pressure was kept up, and there was a possibility of a solution for Cyprus. A ceasefire had been proclaimed as a prelude to a referendum in Western Sahara.

119. An end to armed conflict was not, however, sufficient to ensure respect for human rights, although it was a necessary pre-condition. The Gulf war had tragically demonstrated that war created more problems than it could solve. The aim of that war had not been to restore human rights but to restore independence of a State unjustly and brutally invaded. But independence had been restored not to the people but to a ruler who had no intention of

introducing democracy or human rights. Once national sovereignty had been regained, old scores had been settled and brutal reprisals taken, in particular against Palestinians. With ill-concealed irritation, the United Nations and the coalition countries had been requested not to intervene in such so-called domestic affairs. The war, which had not strengthened the United Nations, had not been fought for human rights, which were thus the major losers.

120. Pope John Paul II, in his Easter address, had said that darkness had progressed in a world which had chosen aggression and the violation of international rights, which tried to solve tensions between peoples by war that brought death in its wake. Peoples from the Baltic to the Mediterranean, and elsewhere, aspiring to respect for their identity and history had raised their voices in vain. Not everything had been done to meet the inexorable threat of famine or to stop wars that were exhausting peoples already living in precarious conditions.

121. Attention continued to be focused on Iraq by the Security Council. It was not impossible that further military operations would be engaged, to finish off a war which was supposed to be surgical and to destroy what the so-called "smart bombs" had missed. Meanwhile drastic sanctions were being maintained without regard for the plight of the civilian population to which the international community had been alerted by Prince Sadruddin Aga Khan, the representative of the United Nations.

122. Pax Christi recommended the fullest possible disarmament and the destruction of all non-conventional weapons, and asked what the Security Council was doing to eliminate such weapons everywhere.

123. It had been said that the United Nations applied double standards. It was bitter to note that the United Nations had been used to justify the war, but today was being impugned for sponsoring a Middle East peace conference. A State that systematically flouted the decisions of the Security Council was opposing that conference and furthermore claiming to contest the right of the people that it oppressed to designate its own representatives. If the members of the Security Council accepted that outrage, was it not because they represented a United Nations of States rather than of peoples?

124. One of the major responsibilities of the non-governmental organizations was to be the voice of those that had no voice. Pax Christi International urged the Sub-Commission to call upon the great Powers to give the United Nations the political and financial means to ensure that international standards were implemented in accordance with a universal rule that must be the same for all, and supported Mr. Ilkahanaf's request for that issue to be discussed under the present agenda item.

125. In that connection, he recalled the various resolutions concerning the annexation of Tibet - on which a written statement had been submitted to the Sub-Commission by Pax Christi - the illegal occupation of Timor by Indonesia, of part of Cyprus by Turkey, of South Lebanon, the West Bank, Gaza and the Golan by Israel.

126. Pax Christi International hoped that the Sub-Commission would continue to give attention to human rights in Iran and that it would extend the mandate of the Special Rapporteur. The increase in the number of executions was a cause for concern, particularly since the sentences were handed down without regard for the rights of those on trial. Another cause for concern were the assassinations carried out abroad, presumably by the Iranian secret service.

127. The commitments given by the Sudanese Government to the Sub-Commission and the Commission on Human Rights had unfortunately not been carried out and the military dictatorship was adding to the misfortunes of a people already suffering from famine.

128. In Myanmar the military dictatorship had frustrated the verdict of the electors, imprisoned and tortured its opponents and covered up criminal drug trafficking. It seemed proper that the Commission should approve a resolution calling for extremely severe economic sanctions against those who usurped power.

129. Once again, Pax Christi requested the United Nations to sponsor negotiations between the belligerents in Sri Lanka to re-establish peace and the respect for human rights that had been violated both by governmental forces and their opponents.

130. Given the dramatic situation of migrants and the increase in the numbers of asylum seekers, Pax Christi considered that development programmes for their countries of origin would avert an exodus of desperate peoples such as was happening in Albania.

131. The direct cost of the Gulf war had amounted to $61 billion, and had cost several more billions in damages: it had caused 200,000 deaths and had made several hundred thousand people into displaced persons. In addition to the suffering that could have been avoided, how much suffering could not have been relieved with such a sum?

The meeting rose at 12.55 p.m.

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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 13 August 1991, at 10 a.m.

Chairman: Mr. JOINET

later: Mrs. BAUTISTA

CONTENTS

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission established under Commission on Human Rights resolution 8 (XXIII) (continued)

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The meeting was called to order at 10.20 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION ESTABLISHED UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1991/14, 15, 46 and 51; E/CN.4/Sub.2/1991/NGO 9; E/CN.4/Sub.2/1990/2; E/CN.4/Sub.2/1989/47, 51 and 55)

1. Mr. HOWEN (Amnesty International) stressed the importance of agenda item 6, which not only provided a context for the Sub-Commission's thematic studies, but also injected a necessary reality into its discussions. Amnesty International believed that the Sub-Commission's role should be, firstly, to identify ojectively and impartially situations of grave human rights violations on which no action had yet been taken by the United Nations and which required specific steps to address them; secondly, it should bring to the attention of the Commission on Human Rights relevant developments in countries that were already the subject of United Nations action when it was clear that further measures were needed to prevent serious violations from continuing unchecked. The Sub-Commission was also well placed to keep under consideration the different forms of United Nations action to protect human rights and to recommend to the Commission new measures to respond more rapidly and effectively to grave violations.

2. One such situation to which Amnesty International had repeatedly drawn the attention of the United Nations was that of Iraq. In 1989 it had described that situation as one of the most flagrant and massive violations of human rights, requiring urgent international action. Yet a Special Rapporteur on Iraq was only now about to begin his work. While Amnesty International welcomed that beginning, it believed that further steps were urgently needed to protect the population and to establish durable guarantees for the respect of human rights in Iraq. It was deeply concerned for the lives and safety of hundreds of thousands of Kurds, Arab Shiah Muslims and others in Iraq whom it believed to be at serious risk of arbitrary arrest, torture, "disappearance" and extrajudicial execution. In July 1991, Amnesty International had addressed an urgent appeal to the United Nations Secretary-General calling for an ongoing United Nations human rights monitoring operation to be established in Iraq and maintained as long as necessary to ensure the establishment of measures for the long-term protection of human rights in that country. It hoped that the proposal would be given serious and urgent consideration.

3. Amnesty International had also welcomed the appointment of the Special Rapporteur on occupied Kuwait, although it remained concerned about violations committed since the Iraqi forces had withdrawn from the country. Hundreds of Iraqis, Palestinians, bedouin and others had been arbitrarily arrested; many had been tortured while others had "disappeared". An estimated 400 detainees, many of them Iraqis, had been summarily expelled to Iraq, where it was feared some might become victims of further abuses. Recent trials of suspected "collaborators" had violated international standards. Amnesty International urged that the Special Rapporteur's mandate be extended to enable that situation to be properly addressed.

4. In Myanmar, thousands of prisoners of conscience had been arrested, some 50 elected parliamentarians had been imprisoned and there were continuing reports of extrajudicial killings and arbitrary detention of members of ethnic minority groups. The United Nations should now examine closely the measures it had already taken and consider how they might be strengthened to respond more effectively to the situation in that country.

5. In Iran, Amnesty International had recorded 547 executions in the first seven months of 1991. Despite some releases, under unacceptable conditions, many political prisoners, including prisoners of conscience, remained in detention. No basic safeguards had been introduced to prevent torture and the ill-treatment of prisoners. It was imperative to maintain the Special Representative on Iran until there was a demonstrable improvement in the human rights situation.

6. Two years previously the Sub-Commission had expressed its concern about events in China. Although grave violations persisted, no further action had been taken by the United Nations. The killings both of the pro-democracy protesters in 1989 and of dozens of Tibetan demonstrators in Lhasa between 1987 and 1989 had demonstrated the Chinese Government's disregard for fundamental human rights. There had also been no attempt to introduce safeguards to prevent violations, such as the continuing use of torture to extract confessions. Despite a few releases since August 1990, thousands of political prisoners were still being held, including prisoners of conscience. Some were serving long sentences after unfair trials, while others had been detained for over a year without trial. During an anti-crime campaign begun two years previously, executions had risen sharply into the thousands.

7. Another grave situation previously drawn to the attention of the United Nations but not yet addressed was that of Mauritania. The illegal arrests and detention, extrajudicial killings, torture and "disappearances", particularly of the "Hal-pulaar" black ethnic group, which had begun in May 1989 had not been adequately investigated. In November and December 1990, several thousand black Mauritanians had been arrested, allegedly in connection with a conspiracy to overthrow the Government. Many of the detainees had been unconditionally released in April 1991. However, recent information indicated that at least 339 known detainees had not been released: 142 were confirmed to have been extrajudicially executed while in custody and the remaining 197 were believed to have died in detention, many as a result of torture.

8. In situations of long-standing gross violations of human rights, the international community too often stood back when a new Government took office, although it was at such times of transition that the United Nations could play a constructive role. In Peru, despite the assurances of President Fujimori on taking took office that human rights would be fully respected, the pattern of grave violations documented since 1983 had continued. Since July 1990, Amnesty International had documented 266 new cases of alleged "disappearance" and 41 cases of extrajudicial executions, as well as cases of torture, including rape, committed by the security forces. It had made clear in its reporting the nature of the atrocities committed by armed opposition groups, particularly Sendero Luminoso. It strongly condemned the torture and killing of captives by that group. However, such abuses could never justify violations by government authorities. Among the cases that had occurred in

the first year of the new Government was the reported killing, by soldiers and an army-controlled Civil Defence Committee, of 15 unarmed men, women and children from the Iquicha community near Uchuraccay on 22 August 1990. The community leaders had reportedly refused to cooperate with the military in a planned confrontation with Sendero Luminoso.

9. Another long-standing pattern of violations, repeatedly drawn to the attention of the United Nations, had continued unchecked for more than 15 years in Syria. Despite the release of 80 political prisoners and over 700 Palestinian detainees three months previously, the human rights situation remained extremely grim. Thousands of suspected opponents of the Government, including some 300 prisoners of conscience, remained in detention. The majority were held in indefinite detention, without charge or trial, and in some cases had been held for over 21 years. Reports were still received of routine torture of political detainees, which in the past year had resulted in four deaths.

10. The need to address grave situations of human rights violations at an early stage, wherever they occurred, was one of the major challenges facing the United Nations human rights bodies. The United Nations could not ignore the plight of thousands of victims of gross violations or delay a response until political circumstances made it expedient to act. The Sub-Commission should identify such situations before they deteriorated further and take whatever steps were necessary, including the development of new and constructive proposals for concrete and decisive action.

11. Mr. KHALIFA, said that there had always been difficulties in identifying the best approach to item 6, but one thing was clear: the Sub-Commission had to apply the guidelines contained in Commission resolution 1991/56. Its members had to avoid cataloguing States into the good and the bad. That could be left to those who spoke on behalf of their Governments. The Sub-Commission's task was to study situations, analyse phenomena and new developments that could lead to gross human rights violations.

12. It could not be claimed that the human rights situation in the world was improving: the word to use was deterioration. There were millions of displaced persons and refugees, hundreds of thousands of casualties in armed struggles, maiming, famine, disease, destruction, destitution and the plight of millions of children. The insensitivity shown to such colossal suffering struck him like a hammer blow. The bedrock of any human rights work was the capacity to acknowledge that all human beings were equally human, regardless of differences; the pinnacle of hypocrisy was to feel only for one's own people, while secretly wondering whether others had a right to human rights.

13. The concept of human rights had always changed with time. Two world wars in the first half of the century had generated a certain type of human rights; the second half had brought about a modified version. The cold war had been a golden era for development of human rights ideas and, at the same time, for putting human rights at the service of expediency and self-interest. Recently, with the disintegration of the Soviet bloc, and the disappearance of the bipolar system of world order, together with the traumatic Gulf war which could not have been possible in a bipolar world, a new concept of human rights was bound to be born to fit a world that no longer knew any real dialogues,

East-West or North-South, but rather a monologue sung by one super-Power. Against such a background, where could human rights be found?

14. War itself was a total denial of the right of peoples to peace, which in itself was the guarantor of most other human rights. The Gulf war had been fought in a peculiar way: for the first time in modern times, war had been conducted like big business, by raising cash to meet the cost and striking early deals to undertake the reconstruction of what had been destroyed. Although the war had not been nuclear, the combined effect of high-tech weaponry, extra-heavy and smart bombs, stealth aircraft and advanced electronics was close to nuclear devastation. Never had a war been fought with such accuracy, not only with regard to weaponry, but politically and economically as well.

15. At a time when the United States national debt had become intolerable, with the economy suffering from the nightmare of Japan's economic super-performance, there had come the God-sent Gulf war. The pre-war woes of the threatened American leadership had subsided. It had lately been reported that the cash contributions by the coalition partners of the United States had pushed the current account of that country into surplus in the first quarter of 1991 for the first time in almost a decade: from a deficit of $9.2 billion in the final quarter of 1990 to a surplus of $16.9 billion in the first quarter of 1991. That figure reflected only the war cost itself, which amounted to $60 billion. Reconstruction costs which were the big economic story, were estimated at $500 billion. Above all, the winner of the Gulf war was never in doubt: a perfect textbook victory was naturally expected. It could also be expected that human rights would be largely eclipsed by the rights of the winner, who, because of his military excellence, would take all.

16. Until the previous year it had been assumed that the strength of nations would soon be measured by the strength of their economies. Contrary to expectations, force, even excessive force, was still the master and the parameter. Now that the hopes of a united Europe and Japan about facing up to the United States were dying, the United States had to work hard to close the gap between its military and political score on one hand and, with only 22 per cent of world production, its economic viability on the other.

17. It was easy to foresee, in the remaining years of the century, the unwinding of most of the achievements of the century in the promotion of human rights. Charity would gradually replace rights. The budding new collective rights to development and solidarity could be forgotten; even the right to live would be reduced to the right to live on goodwill and handouts in a state of economic exploitation and political humiliation.

18. The impact of the new developments in human rights could be felt in three areas: democracy, the arms trade and the so-called right of humanitarian intervention.

19. In Eastern Europe the newly liberated peoples were facing unemployment and insecurity. The ideological rift seemed to have been replaced by an economic and social one. Marxism, dictatorship and centrally-planned economies had been replaced by only a vague laisser-faire ideology, called

democracy by some and strongly recommended by the West. Democracy, however, was not a market commodity. A market economy could, with difficulty, be created; but not a market democracy. Imposing Western democracy was like asking a child to run before he learned to walk. The democratization urged by the West had its limitations. It would never bloom in a climate of total poverty and deprivation. If they were not careful, people searching for Western-style democracy would fall prey to neo-fascism: they would be crushed by the multinationals and their national agents and would end up too starved, demoralized, and oppressed to exercise any human rights, social, economic, political or civil. People had to grow into democracy as they grew into manhood, and suffer the growing pains.

20. Defence spending by developing countries amounted to almost $200 billion a year; there was obviously a dire need to stop excess weaponry in order to convert the resources thus freed to productive activities. One Tornado aircraft cost £27 million, enough to feed 27 million starving people for a full month. On the other hand, the suppliers of advanced military technology and materials for limited- or mass-destruction weaponry were Governments which depended on those sales for their balance of payments or private businesses which cared only for profits. Arms industrialists and dealers were doing very well; they were always looking for another war, another enemy to justify excess spending on high-tech, expensive weaponry. The poor developing countries therefore had to be encouraged to kill each other. The technologically developed countries could not afford peace; they had to keep manufacturing and selling arms. Peace was too costly.

21. The right or duty to interfere on humanitarian grounds was a concept that was gaining attention. Through the Charter of the United Nations or international treaties intervention could be legitimized, but the fundamental doctrine of sovereignty should otherwise remain intact. Nevertheless, under the guise of human rights and simulated benevolence, certain circles were advocating the breach of that doctrine on the pretext that they could not remain inactive when confronted by outrageous abuses of human rights, even inside a sovereign State. On the initiative of France, the General Assembly in 1988 had endorsed the "right to humanitarian assistance" which was quite vague and open to misinterpretation. History taught that sending soldiers across borders was simply colonization. In the name of safeguarding sovereignty the big Powers could wage a war, as in the case of Iraq and Kuwait. They could however, disregard sovereignty as they had in Grenada and Panama. Misgivings about sovereignty had hindered the ratification by the United States Senate of the Convention on Genocide for 40 years; when the United States Senate had recently ratified the Convention against Torture it was with the explicit stipulation that its interpretation had to be consistent with the United States Constitution.

22. If some people believed strongly in the right to intervene for humanitarian reasons, why had South Africa been left to dehumanize the majority of its people for so long, subject only to condemnations, regrets and perforated sanctions meted out with mixed feelings and reluctance? In the name of human rights, in pursuit of self-interest and political expediency, big Powers were speaking of a "softer" sovereignty, a new world order where a country could feel entitled, by its own definition of legality or legitimacy, to trespass on another country's land and put things in order. The sufferings

of the Palestinians were well-known: could those people, who had lost their motherland in the most outrageous aggression of the century, benefit from the right of humanitarian intervention? Of course not, since a double standard was being used. Over 12 million non-Europeans, most of them belonging to the third world, lived in European Community States in a xenophobic nightmare, prime victims of hatred, prejudice and persecution campaigns. Why did those countries refrain from using the right of humanitarian intervention in their own territories?

23. Those were just a few examples of what would become of human rights in the near future.

24. Mr. CABRAL (Anti-Slavery International) said that he had left East Timor four years earlier and had subsequently remained in close touch with the clandestine network both in that country and in Indonesia. The movement was taking great risks fighting for the right to self-determination.

25. The Indonesians wished above all to hide the fact that they still had tens of thousands of troops in East Timor to isolate the population from the guerrillas in the bush. So long as East Timor was occupied by foreign forces, the people would continue to resist them. The East Timorese would never accept integration.

26. He expressed his gratitude to the Sub-Commission for the resolutions adopted in 1989 and 1990 which represented continuing proof that the United Nations was deeply concerned about human rights abuses in East Timor.

27. Currently there was great tension in East Timor because the people eagerly awaited the visit of the Portuguese Parliamentary Delegation which would represent the first occasion in 16 years that representatives of the country recognized by the United Nations as the Administering Power would visit the country. While the people were very eager to welcome them, the occupation forces were scheming to sabotage the mission. They were arming their secret police and were planning provocations which could plunge the country into conflict. It was of particular importance that the United Nations should do everything possible to protect people who wished to speak to the visiting members of Parliament.

28. He had been informed that the Indonesian intelligence agency would mobilize students from Manatuto, in the north-east of the country, to demonstrate against the Portuguese delegation. There were plans to organize demonstrations against pro-independence rallies, creating conflict in an attempt to prove to the world that the people of East Timor were not united in their support for independence. It had to be recognized that the visit of the mission might result in renewed repression, many more arrests and disappearances as soon as the delegation left any area visited and, in particular, the moment they left the country. The period was likely to be one of great turbulence and repression in East Timor.

29. Despite United Nations resolutions, there had been no improvement in the human rights situation in East Timor. News continued to be received about violations, disappearances and summary executions. People lived in constant fear of arbitrary arrest, of maltreatment and torture, not only in the towns

but also in the villages. More territorial troops were stationed in every village than ever before; they often declared curfews without notice and shot people dead for violating a curfew of which nobody was aware.

30. Tens of thousands of Indonesians had settled in East Timor, taking the land, running the economy, occupying the jobs and running the administration. At the same time hundreds of young East Timorese had been enticed into leaving the country, to work in Java. The scheme was presented as a way to solve unemployment but in fact it was designed to remove young Timorese people and use them as cheap labour in factories owned by Indonesian conglomerates. It was a scheme to defuse resistance by the younger generation to the Indonesian invader.

31. Currently the Indonesians had 14 battalions in East Timor for the purpose of crushing the national resistance and capturing its leader, Xanana Gusmao. The occupation forces blamed the population for their own failure and used it as an excuse to continue with the cultural and physical extermination of the East Timorese people.

32. He therefore urged the Sub-Commission to follow the situation in East Timor more closely than ever and to adopt another resolution in condemnation of Indonesian repression. It was also crucially important for the United Nations to persuade the Indonesian Government to enter into serious negotiations with the leaders of the East Timorese resistance. That was the only way to restore peace and end repression. The place to start creating the new world order was in East Timor; it was indefensible for a large country to be allowed to colonize a tiny neighbouring country and for the Indonesian regime to be allowed to continue to abuse the East Timorese people's right to self-determination. The integrity of the country must be restored.

33. Mr. BALIAN (Human Rights Advocates) noted with concern that, during the previous two years, the nationalities conflict within the Soviet Union had developed into an explosive situation, particularly in the Baltic and Caucasus Republics, including in and around Nagorno-Karabagh; full-scale war had erupted on a number of occasions, threatening the significant human rights advances which had been made within the entire Soviet Union. The central Government had failed to address the underlying fundamental problems of the conflicts.

34. His organization was concerned that the conflicts would multiply exponentially unless the international community gave the problem due consideration by entering into a partnership of cooperation with the Soviet Union in search of a peaceful process. To date however the international community had largely ignored the conflict.

35. Recent developments in one region with conflicting territorial and sovereignty claims illustrated the potential for violence. In April and May 1991 an already critical situation in and around the Nagorno-Karabagh autonomous province had deteriorated further. Units of the Soviet Interior Ministry armed forces had taken part in the deportation of thousands of civilians from their ancestral lands with the obvious aim of altering the demographic composition of a disputed area. Shortly thereafter, an international human rights observer team from the André Sakharov Memorial

Congress had visited the region and had concluded that grave violations of human rights and humanitarian laws had been committed by Soviet and Azerbaijani Interior Ministry troops, including the taking of hostages, disappearances, summary executions, torture and arbitrary detentions. In addition, the forced deportation of whole villages had occurred, affecting thousands of Armenians and the team had also found credible and compelling evidence that additional deportations were being planned by the Azerbaijani authorities.

36. Soviet and Azerbaijani officials had justified the violations of human rights and humanitarian laws on the grounds that action had been needed to disarm "Armenian armed bandits and guerrillas" who were the only inhabitants of villages targeted by Interior Ministry troops. The justification was not convincing. The average age of more than 30 people killed in two villages alone was over 61, rather high for bandits and guerrillas. Other questions which arose were why three medical doctors and a journalist in the same villages had been detained and tortured for over 30 days and why humanitarian assistance had been denied to injured people in the encircled villages. How also could it be that more than 10,000 civilians had been deported from their ancestral villages if only "armed bandits" were in those villages? If the aim was indeed to disarm "armed bandits", why was it necessary to kidnap 11 police officers from a village within the borders of Armenia and summarily execute them? A more convincing explanation for the gross violations would appear to be that they represented an attempt to resolve sovereignty and territorial disputes by the use of force, violence, intimidation and deportations.

37. The international community should be alarmed by such unjustified and grave violations which only served to sharpen the conflicts further and make positions more intransigent. It should also be concerned with the more than one-half million internal refugees created during the previous three years as a result of the Ngorno-Karabagh conflict and at the destructive potential of proliferating nationality conflicts and the consequent threat to the democratization process within the Soviet Union.

38. The Soviet Union currently faced a complex period in its history and the outcome would depend on the choices made by the central authorities as well as the republics in addressing the nationalities conflicts. His organization was convinced that the international community could play a significant and constructive role in the peaceful resolution of those conflicts by assisting the central authorities as well as the republics to overcome the difficulties. His organization therefore urged the Sub-Commission and the international community to call upon the parties concerned to halt the use of force in resolving conflicting sovereignty and territorial disputes and to rely instead on dialogue and appeals for international mediation; to respect fully the linguistic, cultural and religious rights of minorities within their territories; to respect fully the laws of armed conflict and particularly to stop the forced transfers of populations into disputed territory; to ensure respect for and promotion of human rights; to formulate urgently and initiate, in cooperation with competent bodies of the United Nations and the international community, a viable process based on the principles of international law, to determine and mediate the future of disputed territories and sovereignty rights within the Soviet Union.

39. Human Rights Advocates also urged the Sub-Commission to request the Centre for Human Rights to tender advisory services to help the Soviet Union formulate processes to resolve the nationalities conflicts as well as to help the republics establish democratic institutions to improve human rights conditions and to recommend that thematic special rapporteurs investigate the reports of human rights violations to which he had referred and include their findings in their respective reports. In conclusion, Human Rights Advocates would submit to the Sub-Commission a comprehensive and up-to-date working paper examining the human rights concerns which he had enumerated.

40. Mr. AL-JADIR (Arab Organization for Human Rights) said that the past year had been a difficult one for human rights in the Arab world. The growing number of settlers in the occupied territories had exacerbated further the deteriorating situation of the human rights of the Palestinian people and continued to represent an obstacle to peace in the region. Iraq's invasion of Kuwait had deprived Arab and other residents of that country of their human rights. There had been deportations, summary executions and loss of property. The most flagrant violation had been the cynical burning of Kuwait's oil wells by Iraq before its withdrawal.

41. It was a matter for regret that, following the liberation of Kuwait, the restored authorities had resorted to grave abuses of the human rights, including summary executions, of individuals accused of collaboration with the invading Iraqis as well as of an indeterminate number of innocent Palestinians and other Arabs. There had subsequently been some improvement in the situation; death sentences had been commuted and new elections had been announced. The electoral law should however be changed to enable residents not of Kuwaiti nationality and women to vote.

42. Following the military coup in Iraq in 1968, many flagrant violations of human rights had occurred, including the use of chemical weapons by the regime against its own Kurdish minority.

43. As a consequence of the Gulf war, the economic and social structure of Iraq had been destroyed and the country had been thrown back to the pre-industrial era. Four months after the war had ended, only 22 per cent of Iraq's total electricty generating capacity was functioning, representing the same output as in 1920.

44. The Iraqi people had suffered not only from the devastating effects of the war but subsequently from the brutal behaviour of their own authorities against protest movements. Political clubs and religious groups were forbidden; candidates for public office must subscribe to the principles of the military coup. The new Constitution banned political activity except that of the ruling party.

45. Amnesty International had called for machinery to monitor the human rights situation in Iraq. It was incumbent on the United Nations to increase its humanitarian assistance to women, children and the minorities in Iraq. Iraq's revenues from its oil production had been reduced by the Security Council which appeared to have forgotten that the west had supplied the weapons for the conflict. Those same Western countries now wanted to destroy what was left of Iraq. When the Iraqi people eventually gained the

right to free elections they would hold those countries to account and ask the foreign Powers which had armed the regime to compensate them for their losses. It was essential that arms should be destroyed and an arms-free area established in the Middle East. A resolution to that effect should apply to all countries in the Middle East, including Israel.

46. Mrs. Bautista took the Chair.

47. Mrs. ATTAH agreed that the situation of human rights was one of stark contrast: on the one hand, undeniable progress had been made while, on the other hand, widespread violations continued unabated.

48. The international community continued to witness conflicts and tensions in many areas, particularly in the third world. Those conflicts had created greater hardships in their wake, causing displacements, in particular of children and women. In some regions the problem had been exacerbated by famine resulting from drought. Conflicts and tensions were most prevalent in Africa and one of the root causes of the violations of human rights in that continent. The ironic situation was that African countries, known for their hospitality, had been constrained to host refugees and displaced persons, thus stretching their own already poor economies; the result was extreme poverty for both hosts and guests.

49. The magnitude of the problem created by the refugees and displaced persons had been such that, at the recently concluded OAU Summit in Abuja, the Heads of Government had appealed to the international community to assist those countries hosting large numbers of refugees while at the same time calling on all member States to create an atmosphere conducive to the voluntary repatriation of those refugees. There was no gainsaying that the human rights of those vulnerable refugees and displaced persons were daily, albeit inadvertently, violated by host Governments because of the financial burden with which those Governments had to contend. The urgency of the problem was illustrated by the fact that one out of every two refugees in the world was an African.

50. She noted with pleasure a glimmer of light at the end of the tunnel in that some of the protracted and chronic conflicts in Africa had either been resolved or would hopefully be ended in the near future. Examples such as Namibia and Angola came to mind.

51. The positive signs and progress which had started two years earlier with the fall of the Berlin wall and the end of the cold war had created conditions which should help resolve many tensions in the world. The democratic wind blowing in many parts of the world, particularly in Africa, was a welcome development. She wished none the less to stress that, for the democratic processes embarked upon by many African countries to be brought to fruition, help was necessary. It was ironical to urge a country, torn apart by incessant demonstrations and riots brought about by the harsh conditions of the International Monetary Fund and other financial institutions, to democratize and at the same time promote the enjoyment of human rights for all its citizens.

52. She wished to pay a tribute to those States which had made genuine efforts in the field of human rights and in that connection she welcomed the progress towards reconciliation in Cambodia. She also welcomed the proposed meeting scheduled to take place in September 1991 on the question of Cyprus. The role of the Secretary-General in that matter was crucial. All parties should be encouraged so that a fair and just solution based on United Nations resolutions could be found. The European Community would also have an important role to play.

53. She was greatly concerned by the violations of the human rights of the Arabs in the territories occupied by Israel. The suffering of the Palestinians had continued unabated in spite of the many concerns expressed by the international community. She once again called for an end to the occupation of the Palestinian lands by Israeli forces. It was unfortunate that the Palestinians, victims of violations for decades in their own homeland, had been the real victims of the Gulf war. She therefore welcomed the efforts being made to convene a Middle East conference later in the year. She appealed to all the parties concerned to show flexibility so that the problem could be solved and the Palestinians be given their own homeland in which to exercise their democratic rights.

54. She wished to reiterate that although the four pillars of apartheid were said to have been repealed, the bills replacing them had brought them back through the back door. There was therefore a need to exercise vigilance while dealing with the apartheid regime in South Africa. The destabilization policy of South Africa inflicted on its neighbours had resulted in the partial destruction of their economies and could not be forgotten. It was to be hoped that South Africa would pay appropriate compensation in due course.

55. The human rights of migrant workers and their families were clearly being violated in many countries, particularly the developed ones. She hoped that adherence to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families would help to alleviate the plight of such people and improve their conditions. She also hoped that migrant workers who had lost their savings in the Middle East during the period of annexation of Kuwait would be compensated.

56. The human rights seminars and workshops should be encouraged further and law-enforcement agencies and the military in countries with consistent patterns of human rights violations should be persuaded to participate actively in them. In order to enable the Centre for Human Rights to carry out its mandate, more funds should be made available to it. With the democratization process under way in Africa, Eastern and Central Europe, the task before the Centre was huge.

57. Mr. LITTMAN (World Union for Progressive Judaism) paid a tribute to Switzerland, whose democratic traditions were the oldest in Europe, on its 700th anniversary. The Swiss Federal Pact of 1 August 1291 was an exemplary text for its time. Its message that it was honourable and profitable to consolidate treaties in peace and tranquility was still appropriate, especially for those States Members of the United Nations that had neglected to sign and ratify the International Covenants or, having done so, regularly broke them.

58. In a statement to the Sub-Commission on 17 August 1988 he had warned that the lack of widespread international protest at Iraq's use of chemical warfare, particularly against its own Kurdish population, should be addressed promptly by the Sub-Commission and the Commission. By a majority vote the Sub-Commission had failed publicly to condemn Iraq at that time.

59. On 6 February 1989, before the Commission on Human Rights, he had again dealt extensively with the Iraqi Government's use of poison gas against its Kurdish population, and he had returned to the charge in the Sub-Commission on 11 August 1989, summarizing the history of chemical warfare. His conclusion had been that the countries tolerating the murderous traffic must put an end to any further supplies of such substances, including services and spare parts.

60. That recapitulation of his organization's consistent efforts in an area concerning which the Sub-Commission and the Commission on Human Rights had been dragging its feet for years, was intended to strengthen his appeal that the Sub-Commission should give serious consideration to its suggestion that a special rapporteur should be appointed immediately to list all national and multinational companies engaged in the lucrative trade in poison gas and all forms of non-conventional weapons, including those in States still unwilling to control such repulsive transactions undertaken by their nationals out of greed, thus contributing to a future chemical war in the Middle East and elsewhere. They deserved to be denounced as the worst type of criminal. In that connection, Mr. Khalifa might perhaps be able to switch his proven skills from South Africa to the Middle East.

61. An important source of information on that matter was a report prepared by Kenneth Timmerman for the Simon Wiesenthal Centre in Los Angeles. A total of 207 companies, 86 of them in Germany, 18 in the United States of America and the United Kingdom, 17 in France and Austria, 12 in Italy and 11 in Switzerland had allegedly sold non-conventional weapons to Saddam Hussein. There had been recent revelations in The Sunday Times about British exports for Iraq's nuclear bomb programme as late as August 1990. Thus, the Sub-Commission would have ample material for a report on the subject.

62. On the issue of the hostages in Lebanon, he wondered why the 11 Jewish hostages had been totally forgotten although at the time of their abduction between 1984 and 1986 they had been much in the news. Since 1986 he had mentioned their plight on many occasions in the Commission and the Sub-Commission, describing all those abducted because they were Jews by an Islamic terror group entitled Organization of the Oppressed on Earth. That organization had indeed oppressed, tortured and killed most of their hapless victims, including Colonel William Higgins, the American Commander of the United Nations Truce Supervision Organization, whose execution had been shown on television. The gang of killers had executed 9 out of the 11 Jewish hostages but only 4 bodies had ever been recovered.

63. There was no reason why Jews should be excluded from the present call for all hostages to be freed. Throughout history the Jews had been considered expendable. President Assad of Syria alone would have the final say as to whether all hostages meant just that or whether it meant all except Jews, including Israeli prisoners of war. The Sub-Commission's voice might be persuasive if it adopted a global resolution on the hostage question.

64. Those who executed in the name of Allah, and refused to account for those they had abducted or even to return dead bodies, should bear in mind the words attributed by Baladhuri to the Prophet Mohammed: "He who does a wrong to a Jew or a Christian will have me as his accuser on the day of the Last Judgement".

65. Mrs. WARZAZ said that Mr. Littman's statement - which she believed was sincere and based on his own conclusions - confirmed her point made the previous day that there were many cases of double standards. That remark applied to non-governmental organizations as well as to Governments. Mr. Littman had been right to say that the Sub-Commission should make a study of the supply of non-conventional weapons. However, he had spoken only of Iraq in connection with the Middle East. It was well known, however, that Israel had a nuclear potential that was much more advanced than that of Iraq or any other Middle Eastern country. She would have supported Mr. Littman's proposal had it applied to all the countries of the Middle East including Israel.

66. Mr. AHDEROM (Baha'i International Community) drew the attention of the Sub-Commission once again to the continued systematic discrimination and oppression suffered by the Baha'i community in the Islamic Republic of Iran. That wave of persecution had begun in 1979 and affected a whole generation of Baha'is who lived with the knowledge that for no other reason than their religious beliefs they had no rights. He was therefore grateful to the Sub-Commission for considering the human rights situation of minority groups such as the Baha'is in the Islamic Republic of Iran, as called for by Sub-Commission resolution 90/9.

67. The Baha'i International Community acknowledged that there had been some isolated and sporadic improvements in the harsh treatment meted out to individual Baha'is over the past decade. However, as long as Baha'is were officially considered "unprotected infidels", enjoying no protection under the law, any improvement in their situation could be reversed immediately. Indeed, since the publication of the report (E/CN.4/1991/35) by Mr. Galindo Pohl, the Special Representative to the Commission on Human Rights, in February 1991, some forms of persecution that had been reduced had begun anew. Numerous official documents demonstrated the religious nature of those persecutions. The Baha'is must therefore continue to rely on the vigilance of the international community as their main means of protection.

68. Since 1979, 197 Baha'is had been killed and 15 others had disappeared and were presumed dead. The frequency of such killings had declined in late 1987 but the situation continued to be precarious. Since Mr. Galindo Pohl's recent visit, Baha'is had been arbitrarily arrested, detained and imprisoned on no charge other than that of adherence to the Baha'i faith. In 1990, over 40 Baha'is had been detained for periods ranging from 12 months to 120 days, 31 of them during the first 6 months of the year. As at 5 July 1991, 10 Baha'is were reported to be in prison.

69. Baha'is were being strangled economically. Thousands of them, dismissed from positions in Government and education because of their religious beliefs, remained unemployed and were officially deprived of the pensions to which they were entitled. There were inconsistencies in issuing and renewing business

licences for Baha'is, and Baha'i farmers were still being refused access to farmers' cooperatives, often the only source of credit, and essential agricultural inputs. Many Baha'i private and business properties, arbitrarily confiscated during the past 12 years, were now being sold at government auctions. Prevented from practising their professions or from earning a livelihood for more than a decade, Baha'is were being stripped of the very means of economic survival.

70. Baha'is were still not allowed to leave the Islamic Republic of Iran freely. In 1990, 380 passport applications were submitted by Baha'is, but only 61 passports were issued, mostly to the sick and elderly. Since March 1991 the issuing of passports to Baha'is had completely stopped. In June 1991, 400 passport applications were waiting to be processed by the Iranian authorities. Baha'i applicants were treated rudely and told to recant their beliefs in order to obtain a passport or to have a current passport renewed or extended.

71. Deprived for over 10 years of the right to maintain its administrative institutions, the Baha'i community was still unable to organize the most basic religious activities. Even Baha'i children's classes for the inculcation of moral and spiritual values had been prohibited by official government order. Baha'is experienced difficulty in burying their dead in a number of cities, since most of their own cemeteries had been confiscated along with all their holy places, historic sites and administrative centres, many of which had been destroyed. Baha'is might now assemble only in limited numbers and in private homes.

72. Baha'i marriages and divorces were not legally recognized. Thus Baha'i children suffered the consequences of being considered illegitimate, particularly in relation to securing legal documents and inheritance. Although Baha'i children had recently been readmitted to elementary and secondary schools, for over 12 years they had been systematically denied access to institutions of higher education.

73. The seriousness of the situation facing the Baha'i community had been documented by the Special Representative in his report to the forty-seventh session of the Commission on Human Rights (E/CN.4/1991/35). The Baha'i International Community was greatly concerned that the abuses against it represented a relentless effort to uproot the Baha'is from the land of their birth. The situation therefore warranted continued attention and monitoring by the Commission on Human Rights and the Sub-Commission. The Baha'i International Community was convinced that the international attention focused on the plight of the Baha'is in the Islamic Republic of Iran since 1980 still constituted an importance source of protection for the beleaguered community. It therefore noted with deep appreciation the Special Representative's specific recommendation that the international community should continue to monitor the implementation of the human rights instruments to which the Islamic Republic of Iran itself was a party.

74. Because of the continued unfounded allegations by the Government of Iran, the Baha'i International Community was obliged to point out that the Baha'is in Iran were not aligned with any opposition movement, ideology or Government. Baha'is were enjoined by the principles and teachings of their faith to be

obedient to the Government of the countries in which they lived, and thus they represented no threat to the Government of the Islamic Republic of Iran. Moreover Baha'is appreciated the important contributions to the advancement of world civilization of all revealed religions including Islam. Baha'is wished only to be granted the same rights as other Iranian citizens to practise their religion freely both as a community and as individuals. They looked forward to the day when they would be allowed to contribute fully to the development of their country.

75. Mr. DIENG (International Commission of Jurists) said that the ICJ wished to call for increased United Nations protection of human rights in areas where gross violations of such rights were occurring, in particular in Iraq and the occupied Palestinian territories. The previous month Amnesty International had warned the United Nations that hundreds of thousands of Kurds, Arab Shiah Muslims and others in Iraq were at serious risk of grave human rights violations. The current United Nations presence in northern Iraq was restricted to humanitarian concerns. Amnesty had therefore advocated the establishment of a United Nations human rights monitoring body in that country. The disturbing news from that region, in particular the Turkish military attacks on Kurdish civilian areas in northern Iraq in clear violation of international law, rendered that call even more urgent.

76. There was an international responsibility to protect human rights, respect for which was one of the fundamental purposes of the Charter of the United Nations. The United Nations had repeatedly decided that gross violations of human rights were not exclusively within the domestic jurisdiction of States. Such violations were the legitimate concern of the international community wherever they occurred. The draft code of crimes against the peace and security of mankind recently adopted by the International Law Commission listed systematic killings, torture, deportation or forceful transfer of populations and the persecution of individuals on the basis of their release not only as gross violations of human rights but as crimes against peace and security. When those practices gave rise to humanitarian issues of such magnitude that the international community must grapple with them, they ceased to be essentially within the jurisdiction of a State.

77. In the past few months there had been a growing trend at the United Nations to give primacy to humanitarian concerns, as exemplified in Security Council resolution 688 (1991) condemning the repression of the Kurdish population in Iraq and paving the way for United Nations humanitarian efforts in the area. The International Commission of Jurists welcomed that resolution and the trend it epitomized, but wished to see human rights concerns given priority consideration. It understood sovereignty as conferring responsibilities on each Government to promote and protect the basic human rights of those residing in its territory. In that respect it noted with satisfaction that the United Nations Observer Mission in El Salvador (ONUSAL), established to oversee the peace agreements reached between the Government and the guerrilla forces in El Salvador, would include a mechanism to inquire into human rights abuses by both sides during the long internal armed conflict. The ICJ hoped that a similar mechanism could be established in Guatemala.

78. The ICJ would, however, like the United Nations to be more consistent in dealing with gross violations of human rights. For years it had been calling such violations in the occupied Palestinian territories to the attention of various United Nations organs. Those violations had been noted and resolutions of condemnation adopted, but very little had been done on the ground to protect the Palestinian population. Israel did not even allow the committee established by the Economic and Social Council to investigate Israeli practices in the occupied territories to enter the country. Security Council resolution 681 of 20 December 1990, expressing grave concern at the deterioration of the situation in the Palestinian territories, merely requested the Secretary-General to monitor and observe the situation through existing United Nations agencies operating in the occupied territories. The Secretary-General had discharged that duty by assigning the mission to the United Nations Relief and Works Agency. That passive solution had had hardly any real effect on the human rights situation.

79. The United Nations should act more firmly and creatively in the protection of human rights in areas where gross violations occurred. Guided by the example of El Salvador, United Nations monitoring and protection teams could also be established in other areas of grave concern, especially where the United Nations was participating in efforts to resolve conflicts. Those included Iraq, the occupied Palestinian territories, Guatemala, Cambodia and might include others such as East Timor and Papua New Guinea.

80. In calling for more vigorous protection of human rights the ICJ did not, however, embrace the concept of "humanitarian intervention" used in the past to justify military attacks on sovereign nations. Such a notion belonged to an era of unequal relations and indeed the ICJ had spoken out against the unlawful invasions of Grenada and Panama. Action taken on humanitarian grounds should be in conformity with the most basic right of every people: the right to internal and external self-determination.

81. In 1988 and 1989 the ICJ, together with non-governmental organizations, had called on the international community to ensure the protection of the Kurdish population in Iraq. The consequence of the failure of the international community to act was known to all. The ICJ was again requesting the international community to take action and sincerely hoped that the United Nations would continue the trend towards assuming a more active role in the protection of human rights. The establishment of a United Nations human rights monitoring and protection mechanism in Iraq and wherever gross violations of human rights occurred would be a step in that direction.

82. Ms. MACLIING-CLAVER (Four Directions Council) said that the indigenous peoples of the Cordillera region of the Philippines had been the victims of the total war policy launched by the armed forces since 1987. Intensive operations in Marag Valley since October 1990 had resulted in the displacement of 1,600 Isnegs indigenous to that area and the death of at least 120 persons including 117 children from an epidemic of measles in the process of the evacuation. Houses had been burnt by soldiers, rice fields destroyed by bombing and farm animals slaughtered during those operations. Hunger stalked the populace which had been unable to harvest its crops since the start of the military campaign. In April 1991 Brigadier General Emiliano Templo, chief of the civil-military relations of the armed forces, had admitted the possibility

of lapses by the military in Marag. That was a complete contradiction of earlier statements to the effect that there were no civilians in Marag. Military officers had recently made it clear that Marag Valley was still under the control of insurgents. The military would probably pursue the campaign in that area at the expense of innocent civilians.

83. Elsewhere in the Cordillera the same pattern of massive operations had continued. Since May 1991, 6,000 additional troops had been deployed in Kalinga, Abra, and the Mountain Province. The military assumed that those areas were the strongholds of the communist insurgents and that operations were necessary to flush them out. They had, however, merely succeeded in dislocating the lives of the indigenous peoples. A fact-finding mission composed of humanitarian and church groups attempting to enter Pinukpuk to investigate the reported atrocities had been stopped by the mayor.

84. The total war had resulted in the violation of the collective right of the people to its ancestral land from which families had been uprooted during militarization; in the destruction of 1,000 hectares of reforestation project after continuous bombing as well as the contamination of water sources from bombs dropped on springs and rivers; the use of children as human shields by soldiers and the rape of two young girls; the disruption of education, the theft and destruction of indigenous heirlooms; and a shortage of food and medicines due to restrictions imposed by the military.

85. There were strong reasons to believe that while the armed forces had invoked its mandate to implement a massive counter-insurgency campaign, the real intention was to assure the future exploitation of the remaining rain forests and mineral resources in the region. The Government of the Philippines had an estimated external debt of $30 billion with the World Bank, the IMF and other international banks. With an economy in crisis, the national economic planners had admitted that natural resources were a potential source of income for the servicing of the foreign debt. The Cordillera was one of the resource regions in the Philippines but could only be exploited after the people's opposition to such projects had been overcome by Government troops.

86. The violation of human rights was not epitomized only by military action. In Itokon, Benghet, the operation of open mining by the Benghet Corporation, one of the country's biggest mining corporations, largely controlled by foreign banks, continued in spite of opposition by the people. The project, which would flatten seven mountain communities out of nine, would displace the Kankanaeys, Ibaloys and other indigenous small-scale miners. The people had resorted to dialogue with government agencies and legislators, to no avail. When they barricaded the entry of mining machinery, the constabulary had been used to intimidate them. Ultimately, the earnings from such destructive mining operations proved more decisive.

87. Four Directions Council had urged the Government and now urged the Sub-Commission to take the necessary steps to stop the military campaigns that caused so much suffering to the people. It also asked for the repeal of the total war policy that violated the rights of the indigenous peoples.

88. Her people wanted peace, which they had known even before the birth of the Philippine Republic. The absence of peace had prevented them from nurturing their land. They sought genuine and meaningful participation in any decision made affecting the Cordillera. Only thus could a solution to the internal conflict be facilitated. Only when the Government realized the importance of the indigenous people's participation in policy-making would the first step be taken towards a peace process. The total war policy constituted the present framework of increased militarization and human rights violations on the part of the Philippine Government. To repeal it would be consistent with the Government's constitutional commitment to respect the rights of the indigenous peoples in the Cordillera and elsewhere, and would be a significant factor in the Government's fulfilment of its international obligations.

89. The Filipino people reiterated the firm belief that the Sub-Commission would respond to its appeal for a concerted effort to promote genuine human rights in the Philippines and secure peace based on justice.

90. Mr. HAMERMAN (International Progress Organization) said that a grave and systematic violation of human rights and fundamental freedoms was being carried out against the entire population of Iraq, unprecedented in form and dimension. The most basic right, the right to life, was being denied to 18 million people by the continuation of the sanctions policy implemented through the United Nations Security Council. That policy involved a total boycott, following the deliberate destruction of Iraq's infrastructure. A further special feature of the case was that the violation was being carried out not by a national government, but by an intergovernmental body against the population of a State Member of the United Nations.

91. The International Progress Organization (IPO) was intervening under Economic and Social Council resolution 1235 (XLII) on the question of the violation of human rights and fundamental freedoms in all countries. In Iraq, the population was being deprived of food, water and medicine. According to the July 1991 report issued by the inter-agency task force led by the representative of the Secretary-General, Prince Sadruddin Aga Khan, the impact of the sanctions on the economy and living conditions of the civilian population had been, and remained, very substantial. The report stated that damage to water treatment plants and the inability to obtain the needed spare parts had cut off an estimated 2.5 million Iraqis from the government system which they had relied upon before the war. Those who still received water were now provided, on average, with one quarter of the pre-war amount per day, much of it of doubtful quality. As a result of the destruction of the sewage system, raw sewage was flowing in some city streets and into rivers. Diarrhoeal diseases, thought to be caused by water and sewage problems, were at four times the level of a year previously. The country was already experiencing outbreaks of typhoid and cholera.

92. According to the same report, owing to the lack of supplies, electricity, water and medicines, the health system was hamstrung. Iraq had not been able to receive medicines and medical supplies since August 1990. The report stressed that, since humanitarian agencies lacked the financial means to meet that demand, mechanisms needed to be urgently established for the country to procure its own medical supplies and to maintain its equipment in operation. Failing that, the health situation would worsen further.

93. A similar picture emerged regarding supplies of food. The report indicated that the aggregate cereal production for 1991 would be around one third of that for 1990. What food was available was beyond the reach of all but the very wealthy, since wheat and rice prices had increased by 45 and 22 times respectively. Malnutrition was widespread, especially among children, pregnant women and lactating mothers. Taken collectively, that information clearly demonstrated a widespread and acute food supply crisis which, if not averted through timely intervention, would gradually but inexorably cause massive starvation throughout the country.

94. Power-generating capacity, restored to 25 per cent of pre-war levels, was precarious, since it depended on the use of cannibalized spare parts. Little more could be done further to increase power generation unless a major importation of spare parts was allowed.

95. Such a threat to the very existence of up to 18 million Iraqi citizens was a grave violation of articles 3, 22 and 23 of the Universal Declaration of Human Rights and might constitute genocide as defined by the Convention on the Prevention and Punishment of the Crime of Genocide. Thus the situation in post-war Iraq could be characterized as similar to that of a medieval city under siege whose population, being cut off from outside assistance, was condemned to perish in the course of time. According to a May 1991 Harvard study team report, the inhabitants most affected were the children. The members of the United Nations Security Council bore a personal, moral and legal responsibility for the grave consequences of the continuation of the sanctions because they had been duly informed of the findings of the Harvard study team report, as well as of the report by the United Nations task force, which had urgently recommended lifting the embargo. In addition, IPO had sent a letter to the Chairman of the Sanctions Committee on 4 July 1991 and another to the Secretary-General of the United Nations on 24 May 1991 drawing attention to the fact that the continuation of the United Nations boycott against Iraq gravely endangered the health and livelihood of the whole Iraqi people, especially of the children. The letter had stressed the fact that no basis for the continuation of the sanctions existed, following the restoration of Kuwaiti sovereignty, in accordance with paragraph 2 of Security Council resolution 661 (1990). It had further stated that even Security Council resolution 687 (1991) did not link the issue of sanctions to any conditions related to the internal political situation in Iraq. Yet two permanent members of the Security Council had hinted that they intended to use their veto power to link the lifting of the sanctions to certain political conditions. A human tragedy of immense proportions was unfolding in Iraq, not due to natural causes but to the decisions made by organs of the United Nations itself. IPO demanded that such an anomalous case of systematic violations of human rights be brought before the Commission on Human Rights and that the Commission urge the Security Council to desist from its policy.

96. Mr. EMERY ROBERT (Centre Europe - Tiers Monde) recalled that his organization had expressed its concern regarding human rights violations in Morocco at recent sessions of the Commission on Human Rights and of the Sub-Commission, speaking on behalf of detainees, missing persons and persons held in the clandestine prison of Tazmamart, of whose existence the Government of Morocco had claimed to be unaware in a statement to the Human Rights Committee at the end of 1990. A direct witness would now take the floor.

97. Mr. ABDELGHANI ABABOU (Centre Europe - Tiers Monde) said that he wished to give evidence on behalf of himself and of a number of Moroccan human rights associations.

98. His father and two of his uncles had been arrested at the time of the attempted military coup d'état of 10 July 1971. His father had been sentenced to 20 years' imprisonment, and his uncles to five years each. The other arrested persons had received sentences ranging from two years' to life imprisonment. From that time onward he had visited his father every week at the Kenitria prison, where his father had been detained with dozens of other political prisoners. On 9 August 1973 he had visited the prison as usual, only to be informed that his father and all the other military prisoners, including those associated with the second attempted coup d'état in August 1972, had been transferred to an unknown destination. However, the efforts made by him and his lawyer to ascertain their whereabouts had been of no avail until 13 July 1975, when armed men had occupied his family residence. His family had been informed that a group of prisoners, including his father and the trade union militant Houcine Manouzi, whose home had also been raided by armed men, had escaped from a secret prison near Rabat.

99. The Sub-Commission would understand the distress of the families of those detained in inhuman conditions at Tazmamart prison. The conditions at the prison were described in various documents published by Moroccan and international associations. A number of persons had already died as a result of them. The nightmare conditions had been confirmed by persons who had escaped from the death camps. The Association of Relatives and Friends of Missing Persons in Morocco had tried to gather as much information as possible on the fate of the prisoners concerned. In 1983 another prison at Kalaat M'Gouna had been discovered. Persons were also being held incommunicado for years at a large number of police stations and barracks.

100. On behalf of all the relatives of the missing persons and of all the associations that he represented, he appealed to the Sub-Commission to help to save lives and to ensure respect for the law. He, like other relatives of missing persons, had had to choose exile in order to be able to speak out about their fate. The Moroccan authorities, however, accused persons such as himself of playing the game of the enemies of Morocco, thus adding insult to injury. All that he and the associations which he represented wanted was respect for the laws which the Moroccan authorities themselves had promulgated and for the international instruments which they had signed. Some of their relatives had never been tried, and his own relatives had already served their sentences. His father should have been released in July 1991. Thus the Sub-Commission was urged to demand that prisoners who had served their sentences be released, that prisoners who had not been tried be tried, that the others be set free or placed in official prisons, and that an international mission of inquiry find out the truth about the fate of all missing persons in Morocco.

101. Mr. KABUI (International Working Group for Indigenous Affairs) said that he represented the interim Government of Bougainville, which was an area of some 8,000 square kilometres with a population of 160,000 people. It was geographically the northernmost island of the Solomon Islands, over 1,000 kilometres from Papua New Guinea. It was only 6 kilometres by canoe to

its nearest neighbour in the Solomon Islands. It was therefore ludicrous that Bougainville should remain a separate territory from the Solomon Islands, with which it shared culture, ethnicity, tradition and geography, while Papua New Guinea shared none of the above prescriptions for identity as a people.

102. Bougainville was a tragic example of the consequences of an indigenous people being denied the fundamental right to self-determination. In June 1988 it had demanded that Papua New Guinea honour the provision for renegotiation of the Bougainville Copper Mining Agreement, which was supposed to be reviewed every 7 years and which Papua New Guinea had chosen to ignore for 11 years. The people of Bougainville had been concerned about the extreme levels of destruction of their flora, fauna and culture and the fact that Bougainville's resources had been extracted for the benefit of Papua New Guinea, with little remuneration for the people of Bougainville. The transmigration of mainlanders had also been a concern. The failure of the Government of Papua New Guinea to consider requests for renegotiation had led to demonstrations by the landowners, resulting in the closure of the mine concerned.

103. The human rights violations committed by the Government of Papua New Guinea against the people of Bougainville during the past three years were well documented in official reports by Amnesty International, the International Committee of the Red Cross, the Australian International Development Bureau, reliable media interviews, photographic evidence and documents collated by the then North Solomons Provincial Government. Women had been raped and murdered, families killed in their homes, and children shot in the fields. Civilians had been detained, tortured, murdered and dumped from helicopters into the sea. Villages had been destroyed and populations displaced. Summary torture and executions had become the norm. What had started out as a local dispute had spread and developed into a self-defence struggle against racism.

104. The Bougainville Revolutionary Army had achieved victory, and on 1 March 1990 Papua New Guinea had withdrawn its forces and administrators, suspending all services. However, on 23 April 1990 a complete blockade of the island had been declared by the Government of Papua New Guinea. The blockade and the refusal to negotiate it had left Bougainville with no alternative but to declare independence on 17 May 1990. Subsequent attempts at negotiation had resulted in broken treaties and attempts at re-invasion by Papua New Guinea. The siege had had catastrophic results for Bougainville. No humanitarian relief had been allowed to enter it, and it was denied all access to communications. The only activity on the once prosperous island was gardening and hunting; industries lay dormant, the towns were deserted, and the schools were closed. Over 5,000 people had died as a direct result of lack of medical supplies; 8,000 children had not been immunized, and previously benign diseases had become life-threatening. The Government of Papua New Guinea was certainly aware of the consequences of the blockade. Its whole approach to the situation demonstrated its intention to destroy the people of Bougainville, which might constitute genocide under the Convention on the Prevention and Punishment of the Crime of Genocide.

105. The Solomon Islands, first colonized by Germany in the mid-nineteenth century, had been separated from Bougainville in 1900 in agreements between Germany and the United Kingdom, the southern Solomon Islands being traded to the United Kingdom. After the First World War, the German territories, collectively termed New Guinea, had become a part of the League of Nations mandate and had been placed under Australian administration along with the Australian territory of Papua. The people of Bougainville had begun to object to the territorial separation from their brothers in the Solomon Islands, with whom marriage and trading had existed for thousands of years. During the Second World War Bougainville had been occupied by the Japanese, then by the Americans, and had once again been handed over to Australian administration as a United Nations trust territory, still separate from the Solomon Islands. The Australian colonial administration had been responsible for opening the Panguna mine in 1964 to fund the entire territories of Papua New Guinea. The landowners had objected but had been dealt with harshly by the administration. In 1975, when Papua New Guinea had been declared independent, Bougainvillians had been denied access to a plebiscite by Australia and Papua New Guinea in what had amounted to a clear denial of the right to self-determination according to the freely expressed will of the people concerned. The continued colonization of Bougainville as the "North Solomons Province" by Papua New Guinea had been tantamount to an annexation of the island following its previously declared independence two weeks prior to that of Papua New Guinea. Bougainvillians did not understand Papua New Guinea's willingness to shoulder the colonial mantle and to prosecute with violence and genocidal intent a claim over territory to which they, as tribal people, knew that they were not entitled.

106. In August 1990 negotiations had taken place, but one week later Papua New Guinea had re-invaded Buka Island and had recommenced its programme of human rights violations, in clear breach of article 13 of the Third Geneva Convention of 1949, to which it had become a party in 1976. Out of humanitarian concern, the Government of the Solomon Islands had initiated further talks between the two sides, resulting in a fresh agreement signed on 23 January 1991, under which both sides had consented to "accept external assistance" in the form of a peace-keeping force. However, the treaty had been violated by a further military incursion into Bougainville. Papua New Guinea's lack of integrity in failing to honour treaties and agreements had been a major contribution to the resultant bloodshed and pointed to the need for international monitoring of treaties between States and peoples. In addition to the points already made, it should be borne in mind that Bougainville was economically viable as a State and capable of trade relations with other countries, that it possessed a Government representative of its people, which maintained sovereignty over the territory, that its people had repeatedly expressed its desire for autonomy, that its 160,000 inhabitants were numerically sufficient for independence, that its economic exploitation constituted a denial of self-determination and the right to sovereignty over natural resources, and that discrimination against Bougainvillians offended many group rights, including those set forth in the Convention on the Elimination of All Forms of Racial Discrimination. The only meaningful way to secure human rights for the people of Bougainville was to recognize the territory's right to self-determination. He therefore urged the Sub-Commission to recommend that the Secretary-General of the United Nations use his good offices to facilitate a dialogue between the State of

Papua New Guinea and the people of Bougainville; he further requested that the United Nations initiate humanitarian intervention by participating as an observer in future negotiations to ensure the implementation of treaty prescriptions, in the establishment of the prescribed multinational peace-keeping force, and any democratic elections or plebiscites as might be necessary to ensure the future democratic freedom of the people of Bougainville.

107. Mr. KHAN (Liberation) noted that in a study on the implementation of United Nations resolutions on self-determination, the United Nations Special Rapporteur had stated that only when self-determination had been achieved could a people take the measures necessary to ensure human dignity, the full enjoyment of all rights, and the political, economic, social and cultural progress of all human beings without any form of discrimination. Since 1947, when the Maharajah of Jammu and Kashmir had acceded provisionally and conditionally to the newly formed State of India, without any reference to the will of the people, the right of self-determination had been denied to the people of Jammu and Kashmir, leading to the denial of all other rights set forth in the International Covenant on Civil and Political Rights. Since the beginning of 1990, the people of Jammu and Kashmir had lost patience with the continued refusal by the Indian authorities to keep solemn pledges made by the former Governor-General, Lord Mountbatten, and by the former Prime Minister, Pandit Nehru, to allow the free will of the people to be expressed. When the case of Kashmir had come before the United Nations on 13 August 1948, the agreement of India and Pakistan that the future status of the territories would be determined in accordance with the will of the people had been recorded. In 1951, however, the Indian authorities had convened a Constituent Assembly, which had then purported to ratify the temporary accession to India. The Assembly had been composed of 75 members, 73 of whom had been returned unopposed while the three principal leaders of the opposition had been in prison. On 30 March 1951, the Security Council had declared that any action which that Assembly might attempt to take to determine the future shape and affiliation of the entire State or any part thereof would not constitute a disposition of the State in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations. In 1957 the Security Council had reaffirmed that decision. Since then the matter had not been considered because it had been known that the veto would be used by India's allies. Nevertheless, the people of Kashmir had continued to oppose Indian rule throughout the years. In 1990, encouraged by events in Eastern Europe, Namibia, and South Africa, it had taken to the streets in the largest demonstrations ever seen in the world. In April, a million people had marched in Srinagar. The Indian authorities had responded by shooting unarmed civilians at random, killing dozens and injuring hundreds.

108. The maintenance by India of a very large military presence in Kashmir had adverse consequences for the entire region. It constituted a threat to peace which ought to be considered by the United Nations Security Council under the Charter, it created enormous strains on the Indian economy, it fanned social and religious tensions within India itself and undermined the secularity which Indian politicians like to claim as the bedrock of their Constitution, and it seriously harmed India's democratic reputation. Clearly, if the people of the

occupied territory was as implacably opposed to Indian rule today as it had been 44 years previously, the maintenance of the occupation was a negative and uncivilized policy.

109. Since the beginning of 1990, when the manifestations of Kashmir's will to self-determination had reached a new level of intensity, the United Nations had reasserted, in the case of Kuwait, the principle enunciated in the Charter that acquisition of territory by force was prohibited. The rights of the people of Western Sahara, long occupied by its powerful neighbour, had been recognized by the United Nations, and at the same time the people of Eritrea had attained freedom after a 30-year struggle.

110. The people of Kashmir did not want a war with India. They wished to secure their rights by constitutional means, if the world community could persuade the Indian authorities to honour their pledges and obligations under the International Covenant on Civil and Political Rights. If, however, the route to freedom by peaceful and democratic methods was blocked, the people of Kashmir would have no alternative but to assert its rights by the use of the appropriate means, in accordance with General Assembly resolution 3314 (XXIX) of 14 December 1974, which recognized the legitimacy of the struggle of peoples under colonial and alien domination. The United Nations was therefore urged to ensure that wanton and systematic acts of violence by the Indian security forces were stopped, and the Sub-Commission was urged to recommend a full investigation of specific wanton acts of violence, rape and terror by the occupation forces in Kashmir. All foreign forces of occupation should be withdrawn and the territory should be placed under the administration of the United Nations, which should create conditions conducive to a free and unfettered expression of the people's will to determine its own future. As Mr. Nehru had rightly stated, Kashmir was not a prize for India or Pakistan. It had an individual existence and its people must be the final arbiters of its future.

The meeting rose at 1.05 p.m.